TITLE 14—COAST GUARD

This title was enacted by act Aug. 4, 1949, ch. 393, § 1, 63 Stat. 495

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Positive Law; Citation

This title has been enacted into positive law by section 1 of act Aug. 4, 1949, ch. 393, 63 Stat. 495, which provided in part that: "Title 14 of the United States Code, entitled 'Coast Guard', is hereby revised, codified, and enacted into law, and may be cited as '14 U.S.C., § —.'"

Effective Date

Section 19 of act Aug. 4, 1949, ch. 393, 63 Stat. 561, provided that: "This Act shall take effect on the first day of the third month after approval by the President but shall not affect any proceedings commenced by or against any person prior to the effective date of this Act."

Repeals

Section 20 of act Aug. 4, 1949, ch. 393, 63 Stat. 561, repealed the sections or parts of sections of the Revised Statutes or Statutes at large covering provisions codified in this act, with a proviso that "any rights or liabilities now existing under such sections or parts thereof shall not be affected by such repeal.".

Legislative Construction

Section 3 of act Aug. 4, 1949, ch. 393, 63 Stat. 557, provided that: "No inference of a legislative construction is to be drawn by reason of the chapter in Title 14, Coast Guard, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catch lines used in such title."

Separability of Provisions

Section 2 of act Aug. 4, 1949, ch. 393, 63 Stat. 557, provided that: "If any part of Title 14, United States Code, as enacted by section 1 of this Act, shall be held invalid the remainder of such title shall not be affected thereby."

Orders, Rules, and Regulations

Section 4 of act Aug. 4, 1949, ch. 393, 63 Stat. 558, provided that: "All orders, rules, and regulations of the Coast Guard in effect under provisions of law superseded or amended by this Act shall, to the extent they would have been authorized under this Act, remain in force and effect as the regulations and orders under the provisions of this Act and shall be administered and enforced under this Act as nearly as may be until specifically repealed, amended, or revised."

Reduction in Grade, Rank, Pay, and Allowances and Benefits

Section 5 of act Aug. 4, 1949, ch. 393, 63 Stat. 558, provided that: "Nothing contained in this Act shall operate to abolish or reduce the grade, rank, rating, pay, allowances, or other benefits to which any person in the Coast Guard is entitled on the effective date of this Act."

Title Referred to in Other Sections

This title is referred to in title 10 sections 1006, 3814a.

PART I—REGULAR COAST GUARD

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Amendments

1950—Act May 5, 1950, ch. 169, § 14(v), 64 Stat. 148, repealed "Chapter 15. Discipline and Related Matters———561" from the analysis. This repeal became effective May 31, 1951, by the provisions of section 5 of said act May 5, 1950.

CHAPTER 1—ESTABLISHMENT AND DUTIES

Sec.
1. Establishment of Coast Guard.
2. Primary duties.
3. Relationship to Navy Department.
4. Operation as a service in the Navy.
5. "Secretary" defined.

§ 1. Establishment of Coast Guard

The Coast Guard as established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times. The Coast Guard shall be a service in the Department of Transportation, except when operating as a service in the Navy.

(Aug. 4, 1949, ch. 393, 63 Stat. 496; Oct. 18, 1976, Pub. L. 94-546, § 1(1), 90 Stat. 2519.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., § 1 (Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 11, 1941, ch. 290, §§ 5, 6(a), 55 Stat. 585).

Said section has been divided. Provisions relating to operation under the Navy in time of war are placed in sections 3 and 4 of this title, and the remainder is in this section.

This section continues the Coast Guard as a military service and branch of the armed forces of the United States at all times. By the act of July 11, 1941, 55 Stat. 585 (title 14, U.S.C., 1946 ed., § 1), the Coast Guard was constituted a branch of the land and naval forces of the United States at all times. This section therefore merely continues an existing agency and codifies existing law on the military status of the Coast Guard, substituting "armed forces" for "land and naval forces" because of the recent establishment of the Department of the Air Force as an "armed force" rather than as a part of the "land and naval forces". The Coast Guard is designated a service in the Treasury Department except when operating as a service in the Navy. This is a better definition of the status of the Coast Guard than one which defines it as a service under the Treasury Department in time of peace, because the President is authorized to place the Coast Guard under the Navy in time of emergency, which could be in time of peace.

Changes were made in phraseology. 81st Congress, House Report No. 557.

Amendments

1976—Pub. L. 94-546 substituted "Department of Transportation" for "Treasury Department".

Transfer of Functions

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655 of Title 49, Transportation. Section 1655 of title 49, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of this title.

§ 2. Primary duties

The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws on and under the high seas and waters subject to the jurisdiction of the United States; shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States covering all matters not specifically delegated by law to some other executive department; shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, ice-breaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall, pursuant to international agreements, develop, establish, maintain, and operate icebreaking facilities on, under, and over waters other than the high seas and waters subject to the jurisdiction of the United States; shall engage in oceanographic research of the high seas and in waters subject to the jurisdiction of the United States; and shall maintain a state of readiness to function as a specialized service in the Navy in time of war.

(Aug. 4, 1949, ch. 393, 63 Stat. 496; Oct. 5, 1961, Pub. L. 87-396, § 1, 75 Stat. 827; June 12, 1970, Pub. L. 91-278, § 1(1), 84 Stat. 304; Dec. 13, 1974, Pub. L. 93-519, 88 Stat. 1659.)

Historical and Revision Notes

This section defines in general terms, for the first time in any statute, all the primary duties of the Coast Guard. It is derived from title 14, U.S.C., 1946 ed., §§ 45, 60k-50o, 51, 52, 53, 55, 60, 61, 62, 63, 98a, 104, 261, 301, title 33, U.S.C., 1946 ed., §§ 720, 720a, 740, 740a, 740b, title 46, U.S.C., 1946 ed., §§ 1 (footnote), 2 (R.S. 1536, 2747, 2758, 2759, 4249; June 23, 1874, ch. 455, § 1, 18 Stat. 220; June 18, 1878, ch. 265, § 4, 20 Stat. 163; July 5, 1884, ch. 221, § 2, 23 Stat. 118; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Apr. 19, 1906, ch. 1640, §§ 1-3, 34 Stat. 123; May 12, 1906, ch. 2454, 34 Stat. 190; June 17, 1910, ch. 301, §§ 6, 7, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 24, 1914, ch. 124, 38 Stat. 387; Mar. 3, 1915, ch. 81, § 5, 38 Stat. 927; Aug. 29, 1916, ch. 417, 39 Stat. 1820; May 22, 1926, ch. 371, § 6, 44 Stat. 626; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; Aug. 16, 1937, ch. 665, § 3, 50 Stat. 667; Feb. 19, 1941, ch. 8, §§ 2, 201, 55 Stat. 9, 11; July 11, 1941, ch. 290, § 7, 55 Stat. 585; Nov. 23, 1942, ch. 639, § 2(2), 56 Stat. 102; Sept. 30, 1944, ch. 453, § 1, 58 Stat. 759; June 22, 1948, ch. 600, 62 Stat. 574; June 26, 1948, ch. 672, 62 Stat. 1050).

This section contains a codification of functions. It sets forth in general language the primary responsibilities of the Coast Guard: enforcement of all Federal laws on waters to which they have application, safety of life and property at sea, aiding navigation, and readiness to function with the Navy. Having been created in 1915 by the consolidation of the Revenue Cutter Service and the Life Saving Service, the Coast Guard has gradually been given additional duties and responsibilities, such as the assignment of law enforcement powers on the high seas and navigable waters in 1936, the transfer of the Lighthouse Service in 1939, and the transfer of the Bureau of Marine Inspection and Navigation in 1942. Existing along with these other duties has been that of maintaining a state of readiness as a specialized service prepared for active participation with the Navy in time of war. These various interdependent functions of the Service have not been expressed collectively in any statute heretofore, but it is believed desirable to do so in this revision in order to have outlined in general terms in one section the broad scope of the functions of the Coast Guard. 81st Congress, House Report No. 557.

Amendments

1974—Pub. L. 93-519 added the provision requiring the Coast Guard to develop, establish, maintain and operate, pursuant to international agreements, icebreaking facilities in waters other than those subject to the jurisdiction of the United States.

1970—Pub. L. 91-278 improved and clarified the text, substituting "on and under" for "upon" in clause preceding first semicolon; inserting "and under" after "life and property on" and deleting "on" after "the high seas and" in clause preceding second semicolon; and substituting "icebreaking" for "ice-breaking" and inserting ", under," after "promotion of safety on" in clause preceding third semicolon, respectively.

1961—Pub. L. 87-396 required the Coast Guard to engage in oceanographic research on the high seas and in waters subject to the jurisdiction of the United States.

CROSS REFERENCES

Aids to navigation authorized, see section 81 of this title.

Ice and derelict patrol, see section 738a of Title 46, Shipping.

Law enforcement, see section 89 of this title.

Safety of naval vessels, see section 91 of this title.

Saving life and property, see section 88 of this title.

§ 3. Relationship to Navy Department

Upon the declaration of war or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, by Executive order, transfers the Coast Guard back to the Department of Transportation. While operating as a service in the Navy, the Coast Guard shall be subject to the orders of the Secretary of the Navy who may order changes in Coast Guard operations to render them uniform, to the extent he deems advisable, with Navy operations.

(Aug. 4, 1949, ch. 393, 63 Stat. 496; Oct. 18, 1976, Pub. L. 94-546, § 1(2), 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 1 (Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 11, 1941, ch. 290, §§ 5, 6(a), 55 Stat. 585).

Said section has been divided. The provisions relating to when the Coast Guard operates as a service in the Navy are in this section. The provisions relating to the establishment of the Coast Guard are placed in section 1 of this title. The provisions relating to appropriations are placed in section 4 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 substituted "Executive" for "executive" and "Department of Transportation" for "Treasury Department".

CROSS REFERENCES

Armed Forces as including Coast Guard, see section 101 of Title 10, Armed Forces.

Cooperation with Navy Department, see section 145 of this title.

Interchange of supplies between Navy and Coast Guard, see section 2571 of Title 10.

Secretary of the Navy, powers with respect to Coast Guard, see section 5032 of Title 10.

Service in Navy to be counted, see section 467 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 5032; title 49 section 1655; title 50 section 191a.

§ 4. Operation as a service in the Navy

Whenever the Coast Guard operates as a service in the Navy:

(a) applicable appropriations of the Navy Department shall be available for the expense of the Coast Guard;

(b) applicable appropriations of the Coast Guard shall be available for transfer to the Navy Department;

(c) precedence between commissioned officers of corresponding grades in the Coast Guard and the Navy shall be determined by the date of rank stated by their commissions in those grades;

(d) personnel of the Coast Guard shall be eligible to receive gratuities, medals, and other insignia of honor on the same basis as personnel in the naval service or serving in any capacity with the Navy; and

(e) the Secretary may place on furlough any officer of the Coast Guard and officers on furlough shall receive one half of the pay to which they would be entitled if on leave of absence, but officers of the Coast Guard Reserve shall not be so placed on furlough.

(Aug. 4, 1949, ch. 393, 63 Stat. 497; May 5, 1950, ch. 169, § 14(u), 64 Stat. 148; June 9, 1966, Pub. L. 89-444, § 1(1), 80 Stat. 195.)

HISTORICAL AND REVISION NOTES

Subsections (a) and (b) are based on title 14, U.S.C., 1946 ed., § 1 (Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 11, 1941, ch. 290, §§ 5, 6(a), 55 Stat. 585).

Said section has been divided. The provisions relating to appropriations are in this section. The provisions relating to establishment of the Coast Guard are placed in section 1 of this title. The provisions relating to when the Coast Guard operates as a service in the Navy are placed in section 3 of this title.

The substantive changes relating to the availability of appropriations when the Coast Guard is transferred to the Navy were suggested by the Bureau of the Budget (July 11, 1941, ch. 290, § 6 (a), 55 Stat. 585).

Subsection (c) is based on title 14, U.S.C., 1946 ed., § 7 (Aug. 29, 1916, ch. 417, 39 Stat. 600).

Subsection (d) is derived from title 34, U.S.C., 1946 ed., §§ 355 to 356b (Feb. 4, 1919, ch. 14, §§ 2-5, 40 Stat. 1056; Aug. 7, 1942, ch. 551, § 1, 56 Stat. 743).

Said sections authorized medals for presentation ". . . to any person who, while serving in any capacity with the Navy of the United States . . ."; inasmuch as this language includes the Coast Guard when it is operating under the Navy, this subsection entails no change in existing law.

Subsection (e) is based on title 34, U.S.C., 1946 ed., § 228 (R.S. 1442; Feb. 28, 1942, ch. 11, 59 Stat. 9).

Inasmuch as R.S. 1442 cited above applies to the Navy and Marine Corps as well as the Coast Guard it is not scheduled for repeal but is being amended by section 6 of this act to eliminate reference to the Coast Guard.

Subsection (f) is based on title 14, U.S.C., 1946 ed., § 3 (Aug. 29, 1916, ch. 417, 39 Stat. 600).

Said section has been divided. The provisions concerning applicability of Navy laws to Coast Guard personnel are placed in this section. The provisions of the provisos of title 14, U.S.C., 1946 ed., § 3 are placed in section 571 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1966—Pub. L. 89-444 made technical changes in subsecs. (d) and (e) by inserting "and" at the end of subsec. (d) and substituting a period for "; and" at the end of subsec. (e).

1950—Act May 5, 1950, repealed subsec. (f), which provided that personnel of the Coast Guard should be subject to the laws for the government of the Navy.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 5 of act May 5, 1950, provided in part that the repeal of subsec. (f) shall take effect on May 31, 1951.

CROSS REFERENCES

Armed Forces as including Coast Guard, see section 101 of Title 10, Armed Forces.

Cooperation with Navy Department, see section 145 of this title.

Interchange of supplies between Navy and Coast Guard, see section 2571 of Title 10.

Secretary of the Navy, powers with respect to Coast Guard, see section 5032 of Title 10.

Service in Navy to be counted, see section 467 of this title.

Uniform Code of Military Justice, see section 801 et seq. of Title 10.

§ 5. "Secretary" defined

As used in this title, the term "Secretary" means the Secretary of the respective department in which the Coast Guard is operating.

(Aug. 4, 1949, ch. 393, 63 Stat. 497.)

HISTORICAL AND REVISION NOTES

This section is definitive and is included to obviate the necessity of spelling out in detail in each section of the bill where the Secretary is referred to, "the Secretary of the Treasury when the Coast Guard is operating in the Treasury Department and the Secretary of the Navy when the Coast Guard is operating as a service in the Navy." 81st Congress, House Report No. 557.

CROSS REFERENCES

General powers of Secretary, see section 92 of this title.

Secretary of Navy, powers with respect to Coast Guard, see section 5032 of Title 10, Armed Forces.

CHAPTER 3—COMPOSITION AND ORGANIZATION

Sec.
41. Grades and ratings.
41a. Active duty promotion list.
42. Number and distribution of commissioned officers.
[43. Repealed.]
44. Commandant; appointment.
[45. Repealed.]
46. Retirement of Commandant.
47. Vice Commandant; assignment; retirement.
[48, 49. Repealed.]
50. Area Commanders.
51. Retirement.

AMENDMENTS

1972—Pub. L. 92-451, § 1(8), Oct. 2, 1972, 86 Stat. 756 substituted "Vice Commandant" for "Assistant Commandant" in item 47 and added items 50 and 51.

1963—Pub. L. 88-130, § 1(7), Sept. 24, 1963, 77 Stat. 175, added item 41a and deleted item 43.

1960—Pub. L. 86-474, § 1(8), May 14, 1960, 74 Stat. 145, substituted "Assistant Commandant; assignment; retirement" for "Assistant Commandant and Engineer in Chief; appointment" in item 47 and struck out items 45, 48, and 49.

§ 41. Grades and ratings

In the Coast Guard there shall be an admiral, vice admirals; rear admirals; captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; chief warrant officers, W-4; chief warrant officers, W-3; chief warrant officers, W-2; cadets; warrant officers, W-1; and enlisted men. Enlisted men shall be distributed in ratings established by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 497; Aug. 10, 1956, ch. 1041, § 6, 70A Stat. 620; May 14, 1960, Pub. L. 86-474, § 1(1), 74 Stat. 144; Oct. 2, 1972, Pub. L. 92-451, § 1(1), 86 Stat. 755.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 5, 9, 21 (Apr. 12, 1902, ch. 501, § 1, 32 Stat. 100; Jan. 28, 1915, ch. 20, § 2, 38 Stat. 801; May 18, 1920, ch. 190, § 8, 41 Stat. 603; June 5, 1920, ch. 235, § 1, 41 Stat. 879; Jan. 12, 1923, ch. 25, §§ 1, 2, 42 Stat. 1130; July 3, 1926, ch. 742, §§ 3, 9, 10, 44 Stat. 815, 817).

The grades of vice admiral and rear admiral are added to make provision for the commissioned officer personnel structure of the service as provided for in this revision. The entire rating structure for enlisted men is left to the administrative discretion of the Secretary, as in the past, for reasons of flexibility.

The last two paragraphs of said section 5 are obsolete and have been omitted.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Pub. L. 92-451 substituted "vice admirals" for "a vice admiral".

1960—Pub. L. 86-474 inserted the grade of admiral.

1956—Act Aug. 10, 1956, substituted "chief warrant officers, W-4; chief warrant officers, W-3; chief warrant officers, W-2" for "commissioned warrant officers", and "warrant officers, W-1" for "warrant officers".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

REPEALS

Section 53 of act Aug. 10, 1956, purportedly repealed section 1(41) of act Aug. 4, 1949, however, section 6 of such act Aug. 10, 1956, amended section 41 of this title to read as above set forth.

CROSS REFERENCES

Enlisted men, see section 350 et seq. of this title.

Officers, see section 211 et seq. of this title.

Pay and allowances of officers, see section 461 of this title.

§ 41a. Active duty promotion list

(a) The Secretary shall maintain a single active duty promotion list of officers of the Coast Guard on active duty in the grades of ensign and above. Retired officers and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not be included on the active duty promotion list. Reserve officers on extended active duty, other than those serving in connection with organizing, administering, recruiting, instructing, or training the Reserve components or assigned to the Selective Service System, shall be included on the active duty promotion list.

(b) Officers shall be carried on the active duty promotion list in the order of seniority of the grades in which they are serving. Officers serving in the same grade shall be carried in the order of their seniority in that grade. The Secretary may correct any erroneous position on the active duty promotion list that was caused by administrative error.

(c) A person appointed in the grade of ensign or above in the Regular Coast Guard shall be placed on the active duty promotion list in the order of his date of rank and seniority.

(d) A Reserve officer, other than one excluded by subsection (a), shall, when he enters on extended active duty, be placed on the active duty promotion list in accordance with his grade and seniority. The position of such a Reserve officer among other officers of the Coast Guard on active duty who have the same date of rank shall be determined by the Secretary.

(Added Pub. L. 88-130, § 1(1), Sept. 24, 1963, 77 Stat. 174, and amended Pub. L. 91-278, § 1(2), June 12, 1970, 84 Stat. 304; Pub. L. 93-174, § 1(1), Dec. 5, 1973, 87 Stat. 692.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-174 substituted "Retired officers and officers" for "Retired officers, officers" and struck out ", and officers of the Women's Reserve" following "Coast Guard Academy".

1970—Subsec. (a). Pub. L. 91-278 inserted "or assigned to the Selective Service System" following "components" in last sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 42. Number and distribution of commissioned officers

(a) The total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard shall not exceed five thousand.

(b) The commissioned officers on the active duty promotion list shall be distributed in grade in the following percentages, respectively: rear admiral 0.75; captain 6.0; commander 12.0; lieutenant commander 18.0. The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce the percentage applicable to any grade above lieutenant commander, and in order to compensate for such reduction increase correspondingly the percentage applicable to any lower grade.

(c) The Secretary shall, at least once each year, make a computation to determine the number of officers on the active duty promotion list authorized to be serving in each grade. The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving on active duty on the date the computation is made. In making computations under this section the nearest whole number shall be regarded as the authorized number in any case where there is a fraction in the final result.

(d) The numbers resulting from such computations shall be for all purposes the authorized number in each grade, except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(e) Officers who are not included on the active duty promotion list, officers serving as extra numbers in grade under sections 432 and 433 of this title, and officers serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 9(d)(1) of the Department of Transportation Act (80 Stat. 944; 49 U.S.C. 1657), shall not be counted in determining authorized strengths under subsection (c) and shall not count against those strengths. The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 497; July 20, 1956, ch. 647, § 2, 70 Stat. 588; May 14, 1960, Pub. L. 86-474, § 1(2), 74 Stat. 144; Sept. 24, 1963, Pub. L. 88-130, § 1(2), 77 Stat. 174; June 9, 1966, Pub. L. 89-444, § 1(2), 80 Stat. 195; July 5, 1968, Pub. L. 90-385, 82 Stat. 293; Oct. 2, 1972, Pub. L. 92-451, § 1(2), 86 Stat. 755; Dec. 5, 1973, Pub. L. 93-174, § 1(2), 87 Stat. 692.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 6a (July 23, 1947, ch. 301, § 1, 61 Stat. 409).

The only change is in phraseology in the second sentence, it being necessary to include the extra numbers authorized by the act of July 23, 1947, in the figure given as the present number of extra numbers in the Coast Guard. 81st Congress, House Report No. 557.

AMENDMENTS

1973—Subsec. (e). Pub. L. 93-174 substituted "Coast Guard Academy and of the" for "Coast Guard Academy, of the" and struck out ", and of the Women's Reserve" following "training and reserve components".

1972—Subsec. (e). Pub. L. 92-451 added provision that officers excluded under section 1657(d)(1) of Title 49 shall not be counted in determining authorized strengths.

1968—Subsec. (a). Pub. L. 90-385 increased from four thousand to five thousand the limit on the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard.

1966—Subsec. (a). Pub. L. 89-444 raised from three thousand five hundred to four thousand the limit on the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard.

1963—Pub. L. 88-130 specified the percentage of distribution of commissioned officers from rear admiral to lieutenant commander, authorized the Secretary to prescribe percentages for lieutenant, lieutenant (junior grade), and ensign, required the number in each grade to be computed by applying the applicable percentage to the total number of officers serving on active duty on the date the computation is made, provided that officers not on the active duty promotion list, officers serving as extra numbers in grade, and officers serving with other departments or agencies on a reimbursable basis shall not be counted in determining authorized strengths and that the number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy, of the Reserve, and of the Women's Reserve shall be prescribed by the Secretary, and deleted provisions which included in the number of commissioned officers the extra numbers in grade which increase the authorized number of line officers upon separation or retirement of the person holding such number, and the members of the permanent commissioned teaching staff of the Coast Guard Academy, distributed commissioned officers in grades in

the same percentages as prescribed for the Navy, determined the authorized number of officers in the various grades by the actual number on active duty, including permanent, temporary, and reserve officers, but not including extra numbers in the Coast Guard at the date of making the computation, and which provided that no officer be reduced in permanent grade or pay or removed from the active list as a result of any computation of the number of officers in grade.

1960—Pub. L. 86-474 increased the total number of commissioned officers from 3,000 to 3,500.

1956—Act July 20, 1956, substituted the words "three thousand" for "two thousand two hundred and fifty", and inserted words "except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

CROSS REFERENCES

Navy, distribution of commissioned officers, see sections 5447, 5448, 5454, 5455 of Title 10, Armed Forces.

Professors of Coast Guard Academy, number and appointment, see sections 187, 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271, 433 of this title.

[§ 43. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 498, provided for the relative rank of commissioned officers with respect to Army and Navy officers, and is now covered by section 741 of Title 10, Armed Forces.

§ 44. Commandant; appointment

The President may appoint, by and with the advice and consent of the Senate, one Commandant for a period of four years, who may be reappointed for further periods of four years, who shall act as Chief of the Coast Guard. The Commandant shall be appointed from the officers on the active duty promotion list serving above the grade of captain who have completed at least ten years of active service as a commissioned officer in the Coast Guard. The Commandant while so serving shall have the grade of admiral.

(Aug. 4, 1949, ch. 393, 63 Stat. 498; May 14, 1960, Pub. L. 86-474, § 1(3), 74 Stat. 144; Sept. 24, 1963, Pub. L. 88-130, § 1(3), 77 Stat. 175; June 9, 1966, Pub. L. 89-444, § 1(3), 80 Stat. 195; Oct. 2, 1972, Pub. L. 92-451, § 1(3), 86 Stat. 755.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 11 (Apr. 16, 1908, ch. 145, §§ 1, 2, 35 Stat. 61; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Jan. 12, 1923, ch. 25, § 2, 42 Stat. 1130; Apr. 23, 1930, ch. 211, 46 Stat. 253; June 9, 1937, ch. 309, § 1, 50 Stat. 252; June 6, 1940, ch. 257, § 1(a), 54 Stat. 246).

Said section has been divided. The provisions of the first proviso are placed in section 45 of this title, and the remainder is placed in this section.

The grade of the Commandant is fixed as vice admiral rather than that prescribed for Bureau Chiefs of the Navy. The additional qualifications that an officer appointed Commandant must have at least 10 years commissioned service in the Coast Guard has been inserted. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Pub. L. 92-451 substituted "above the grade of captain" for "in the grade of captain or above" in the second sentence.

1966—Pub. L. 89-444 struck out provision that the position of an officer appointed Commandant be filled by promotion according to law.

1963—Pub. L. 88-130 substituted "officers on the active duty promotion list serving in the grade of" or "active list of officers who hold a permanent commission as", required the qualifying period of 10 years commissioned service to be "active" service, and eliminated ", pay, and allowances" preceding "of admiral".

1960—Pub. L. 86-474 substituted "active list of officers" for "active list of line officers", "captain or above" for "commander or above", and "allowances of admiral" for "allowances of vice admiral".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

EFFECTIVE DATE OF HIGHER GRADE AND INCREASED PAY AND ALLOWANCES

Section 2 of Pub. L. 86-474 provided that: "The increased grade of admiral for the Commandant and vice admiral for the Assistant Commandant [now Vice Commandant], including the pay and allowances applicable to such grades, shall be effective on the first day of the month following enactment of this Act [May 14, 1960]."

SAVINGS PROVISION

Section 3 of Pub. L. 86-474 provided that: "Except as provided by section 2 [set out as a note under this section], the amendments by section 1 [amending this section and sections 41, 42, 46, 47, 186 to 191, 222, 247(c), 365, and 462 of this title, and repealing sections 45, 48, and 49 of this title] shall not operate to change or deprive the present incumbents serving as Commandant, Assistant Commandant [now Vice Commandant], and Engineer in Chief of any rights, benefits and privileges appertaining to such offices on the day preceding the date of enactment of this Act [May 14, 1960], nor to divest them of their offices for the terms appointed."

CROSS REFERENCES

General powers of Commandant, see section 93 of this title.

[§ 45. Repealed. Pub. L. 86-474, § 1(4), May 14, 1960, 74 Stat. 144]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 498, related to the permanent grade of the Commandant on expiration of term.

§ 46. Retirement of Commandant

(a) Any commandant [1] who is not reappointed shall, at the expiration of his term, be retired with the grade of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant.

(b) A Commandant who is retired for physical disability shall be placed on the retired list with the grade of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant.

(c) An officer who is retired prior to the expiration of his term, while serving as Comman-

[1] So in original.

dant, may, in the discretion of the President, be retired with the grade of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant.

(Aug. 4, 1949, ch. 393, 63 Stat. 499; May 14, 1960, Pub. L. 86-474, § 1(5), 74 Stat. 144; Sept. 24, 1963, Pub. L. 88-130, § 1(4), 77 Stat. 175; June 9, 1966, Pub. L. 89-444, § 1(4), (5), 80 Stat. 195.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 161 (Jan. 12, 1923, ch. 25, § 2, 42 Stat. 1130; June 25, 1936, ch. 808, 49 Stat. 1924; June 9, 1937, ch. 309, § 1, 50 Stat. 252; June 6, 1940, ch. 257, § 1(a), 54 Stat. 246).

Provision is added for retirement of the Commandant with the grade and pay of vice admiral after 3 years service, in the discretion of the President, regardless of total length of service. Provision is also added for retirement with the grade and pay of vice admiral in case of physical disability. 81st Congress, House Report No. 557.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-444, § 1(4), removed requirement that the Commandant serve 2½ years as Commandant before being eligible for retirement with the grade of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant.

Subsec. (d). Pub. L. 89-444, § 1(5), repealed subsec. (d) which provided that a Commandant who retired within 2½ years of the date of his original appointment as Commandant would retire in his permanent grade and with the retired pay of that grade.

1963—Subsec. (a). Pub. L. 88-130 substituted "of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant" for "and retired pay of admiral".

Subsec. (b). Pub. L. 88-130 substituted "of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant" for "and retired pay of admiral".

Subsec. (c). Pub. L. 88-130 substituted "of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant" for "and retired pay of admiral".

1960—Pub. L. 86-474 authorized any Commandant who is not reappointed at the expiration of his term to be retired with the grade and retired pay of admiral, directed placement on the retired list with the grade and retired pay of admiral for a Commandant who is retired for physical disability, reduced from three to two and one-half years the period that the Commandant must serve before he may voluntarily apply retirement without regard to total length of service, and provided that any Commandant who retires within two and one-half years of the date of his original appointment as Commandant shall retire in his permanent grade and with the retired pay of that grade.

§ 47. Vice Commandant; assignment; retirement

(a) The President may appoint, by and with the advice and consent of the Senate, one Vice Commandant who shall rank next after the Commandant, shall perform such duties as the Commandant may prescribe and shall act as Commandant during the absence or disability of the Commandant or in the event that there is a vacancy in the office of Commandant. The Vice Commandant shall be selected from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendation for such appointment. The Vice Commandant shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment of an [1] Vice Commandant shall be effective on the date the officer assumes such duty, and shall terminate on the date he is detached from such duty.

(b) A Vice Commandant, while so serving, who is retired for physical disability shall be placed on the retired list with the grade and retired pay of vice admiral.

(c) An officer who is retired while serving as Vice Commandant, or who, after serving at least two and one-half years as Vice Commandant, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade and retired pay of vice admiral.

(d) An officer who, after serving less than two and one-half years as Vice Commandant, is retired after completion of that service while serving in a lower rank or grade, shall be retired in his permanent grade and with the retired pay of that grade.

(Aug. 4, 1949, ch. 393, 63 Stat. 499; May 14, 1960, Pub. L. 86-474, § 1(6), 74 Stat. 144; Sept. 24, 1963, Pub. L. 88-130, § 1(5), (6), 77 Stat. 175; June 9, 1966, Pub. L. 89-444, § 1(6), (7), 80 Stat. 195; Oct. 2, 1972, Pub. L. 92-451, § 1(4), 86 Stat. 755.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 11a, 12 (Apr. 16, 1908, ch. 145, §§ 1, 2, 35 Stat. 61; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Jan. 12, 1923, ch. 25, § 2, 42 Stat. 1130; May 24, 1939, ch. 148, §§ 2, 3, 53 Stat. 757; June 6, 1940, ch. 257, §§ 1(b), 3, 54 Stat. 246; July 23, 1947, ch. 301, § 2, 61 Stat. 410; May 19, 1948, ch. 305, 62 Stat. 239).

Said sections have been divided. The provisions of the proviso of title 14, U.S.C., 1946 ed., § 11a, and the first proviso of title 14, U.S.C., 1946 ed., § 12, are placed in section 48 of this title and the remainder is placed in this section.

The provisions regarding appointment of the Assistant Commandant and Engineer in Chief are coordinated, inasmuch as these positions are about equal in the Coast Guard organization. The qualification that the Engineer in Chief be appointed from the active list of engineering officers is changed to the active list of officers who have qualified for engineering duty, because there is no longer any provision for a corps of engineering officers. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-451 substituted "Vice Commandant" for "Assistant Commandant" in four places, and "above the grade of captain" for "in the grade of captain or above" in the second sentence.

Subsec. (b). Pub. L. 92-451 substituted "A Vice Commandant" for "An Assistant Commandant".

Subsec. (c). Pub. L. 92-451 substituted "Vice Commandant" for "Assistant Commandant" in two places.

Subsec. (d). Pub. L. 92-451 substituted "Vice Commandant" for "Assistant Commandant".

1966—Subsec. (c). Pub. L. 89-444, § 1(6), removed the requirement that the Assistant Commandant serve 2½ years as Assistant Commandant before becoming eligible for retirement with the grade and pay of vice admiral.

Subsec. (d). Pub. L. 89-444, § 1(7), struck out provision that section 334 of this title, which covers cases of retirement when a higher grade has been held, shall not apply to an officer retiring within 2½ years of the date of his original assignment as Assistant Commandant.

[1] Pub. L. 92-451 amended subsec. substituting "Vice Commandant" for "Assistant Commandant", but did not change "an" to "a".

1963—Subsec. (a). Pub. L. 88-130, § 1(5), substituted "officers on the active duty promotion list serving in the grade of captain or above" for "active list of officers who hold a permanent commission as captain or above".

Subsec. (d). Pub. L. 88-130, § 1(6), substituted "section 334" for "section 243".

1960—Pub. L. 86-474 amended section generally, and, among other changes, required the Assistant Commandant to be appointed from the active list of officers who hold a permanent commission as captain or above, raised the grade of the Assistant Commandant from rear admiral to vice admiral, increased his pay and allowances from that of a rear admiral (upper half) to that of a vice admiral, eliminated provisions which related to an Engineer in Chief, and added subsecs. (b) to (d).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

EFFECTIVE DATE OF HIGHER GRADE AND INCREASED PAY AND ALLOWANCES

The increased grade of vice admiral for the Vice Commandant, including the pay and allowances applicable to such grade, effective on the first day of the month following May 14, 1960, see section 2 of Pub. L. 86-474, set out as a note under section 44 of this title.

[§§ 48, 49. Repealed. Pub. L. 86-474, § 1(7), May 14, 1960, 74 Stat. 145]

Section 48, act Aug. 4, 1949, ch. 393, 63 Stat. 499, related to the permanent grade of that Assistant Commandant and the Engineer in Chief on expiration of term.

Section 49, act Aug. 4, 1949, ch. 393, 63 Stat. 499, related to the grade and retired pay upon retirement of the Assistant Commandant or the Engineer in Chief.

§ 50. Area commanders

(a) The President may appoint, by and with the advice and consent of the Senate, a Commander, Atlantic Area, and a Commander, Pacific Area, each of whom shall be an intermediate commander between the Commandant and the district commanders in his respective area and shall perform such duties as the Commandant may prescribe. The area commanders shall be appointed from officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointments.

(b) An area commander shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment of an area commander is effective on the date the officer assumes that duty, and terminates on the date he is detached from that duty.

(Added Pub. L. 92-451, § 1(5), Oct. 2, 1972, 86 Stat. 755.)

EFFECTIVE DATE

Section effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

§ 51. Retirement

(a) An officer who, while serving as Commander, Atlantic Area, or Commander, Pacific Area, is retired for physical disability shall be placed on the retired list with the grade and retired pay of vice admiral.

(b) An officer who is retired while serving as Commander, Atlantic Area, or Commander, Pacific Area, or who, after serving at least two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the grade and retired pay of vice admiral.

(c) An officer who, after serving less than two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade and with the retired pay of that grade.

(Added Pub. L. 92-451, § 1(5), Oct. 2, 1972, 86 Stat. 755.)

EFFECTIVE DATE

Section effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

CHAPTER 5—FUNCTIONS AND POWERS

Sec.
81. Aids to navigation authorized.
82. Cooperation with Administrator of the Federal Aviation Administration.
83. Unauthorized aids to maritime navigation; penalty.
84. Interference with aids to navigation; penalty.
85. Aids to maritime navigation; penalty.
86. Marking of obstructions.
[87. Repealed.]
88. Saving life and property.
89. Law enforcement.
90. Ocean stations.
91. Safety of naval vessels.
92. Secretary; general powers.
93. Commandant; general powers.
94. Oceanographic research.

AMENDMENTS

1976—Pub. L. 94-546, § 1(5), (7), Oct. 18, 1976, 90 Stat. 2519, substituted "Federal Aviation Administration" for "Federal Aviation Agency" in item 82, and deleted item 87.

1974—Pub. L. 93-283, § 1(4), May 14, 1974, 88 Stat. 140, deleted "on fixed structures" following "maritime navigation" in item 85.

1961—Pub. L. 87-396, § 2, Oct. 5, 1961, 75 Stat. 827, added item 94.

1958—Pub. L. 85-726, title XIV, § 1404, Aug. 23, 1958, 72 Stat. 808, substituted "Administrator of the Federal Aviation Agency" for "Administrator of Civil Aeronautics" in item 82.

1956—Act June 4, 1956, ch. 351, § 3, 70 Stat. 227, substituted in item 85, "Aids to maritime navigation on fixed structures" for "Failure to maintain lights".

§ 81. Aids to navigation authorized

In order to aid navigation and to prevent disasters, collisions, and wrecks of vessels and aircraft, the Coast Guard may establish, maintain, and operate:

(1) aids to maritime navigation required to serve the needs of the armed forces or of the commerce of the United States;

(2) aids to air navigation required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or the Secretary of any department within the Department of Defense and as required by any of those officials; and

(3) electronic aids to navigation systems (a) required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or any department within the Department of Defense; or (b) required to serve the needs of the maritime commerce of the United States; or (c) required to serve the needs of the air commerce of the United States as requested by the Administrator of the Federal Aviation Administration.

These aids to navigation other than electronic aids to navigation systems shall be established and operated only within the United States, the waters above the Continental Shelf, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and beyond the territorial jurisdiction of the United States at places where naval or military bases of the United States are or may be located.

(Aug. 4, 1949, ch. 393, 63 Stat. 500; June 22, 1951, ch. 150, 65 Stat. 89; Sept. 3, 1954, ch. 1263, § 30, 68 Stat. 1237; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1404, 72 Stat. 808; Oct. 14, 1966, Pub. L. 89-662, § 1, 80 Stat. 912; Oct. 18, 1976, Pub. L. 94-546, § 1(3), 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed.; §§ 50m, 50o, and on title 33, U.S.C., 1946 ed., §§ 720, 720a, 739, 740, 740a, 740b, 769 (R.S. 4668; June 23, 1874, ch. 455, § 1, 18 Stat. 220; June 17, 1910, ch. 301, § 7, 36 Stat. 538; Mar. 3, 1915, ch. 81, § 5, 38 Stat. 927; Aug. 28, 1916, ch. 414, § 3, 39 Stat. 538; May 22, 1926, ch. 371, § 6, 44 Stat. 626; Feb. 25, 1925, ch. 313, § 3, 45 Stat. 1262; Aug. 16, 1937, ch. 665, § 3, 50 Stat. 667; June 26, 1948, ch. 672, §§ 1, 3, 62 Stat. 1050).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 substituted in cl. (3)(c) "Federal Aviation Administration" for "Federal Aviation Agency".

1966—Pub. L. 89-662 expanded the authorization for the establishment, maintenance, and operation of aids to air navigation and electronic aids to navigation systems required to serve the needs of the armed forces to include needs peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or the Secretary of any department within the Department of Defense, substituted "electronic aids to navigation systems" for "Loran stations", and altered the list of locations where aids to navigation other than electronic aids to navigation could be located by adding the waters above the Continental Shelf and by striking out places where such aids to navigation had been established prior to June 26, 1948.

1958—Pub. L. 85-726 substituted "Administrator of the Federal Aviation Agency" for "Administrator of Civil Aeronautics".

1954—Act Sept. 3, 1954, substituted "Department of Defense" for "National Military Establishment".

1951—Act June 22, 1951, extended Coast Guard's authority to include the Trust Territory of the Pacific Islands.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of this section by Pub. L. 85-726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified, and took office on October 31, 1958.

EX. ORD. NO. 7521. USE OF VESSELS FOR ICE-BREAKING OPERATIONS IN CHANNELS AND HARBORS

Ex. Ord. No. 7521, Dec. 21, 1936, 1 F.R. 2527, provided:

1. The Coast Guard, operating under the direction of the Secretary of the Treasury, is hereby directed to assist in keeping open to navigation by means of ice-breaking operations, in so far as practicable and as the exigencies may require, channels and harbors in accordance with the reasonable demands of commerce; and to use for that purpose such vessels subject to its control and jurisdiction or which may be made available to it under paragraph 2 hereof as are necessary and are reasonably suitable for such operations.

2. The Secretary of War [Army], the Secretary of the Navy, and the Secretary of Commerce are hereby directed to cooperate with the Coast Guard in such ice-breaking operations, and to furnish the Coast Guard, upon the request of the Commandant thereof, for this service such vessels under their jurisdiction and control as in the opinion of the Commandant, with the concurrence of the head of the Department concerned, are available and are, or may readily be made, suitable for this service.

CROSS REFERENCES

Development and operation of aids to navigation, see section 2 of this title.

Ice and derelict patrol, see section 738a of Title 46, Shipping.

Interference with aids to navigation; penalty, see section 84 of this title.

Navigation rules and laws—

Commandant's power to establish, see section 316 of Title 33, Navigation and Navigable Waters; section 93 of this title.

Great Lakes and tributary waters, lights, see section 262 of Title 33, Navigation and Navigable Waters.

Red River of the North and rivers emptying into Gulf of Mexico, lights, see section 323 of Title 33.

Rivers, harbors and inland waters, lights, see section 222 of Title 33.

Unauthorized aids to maritime navigation; penalty, see section 83 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 84 of this title.

§ 82. Cooperation with Administrator of the Federal Aviation Administration

The Coast Guard, in establishing, maintaining, or operating any aids to air navigation herein provided, shall solicit the cooperation of the Administrator of the Federal Aviation Administration to the end that the personnel and facilities of the Federal Aviation Administration will be utilized to the fullest possible advantage. Before locating and operating any such aid on military or naval bases or regions, the consent of the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, as the case may be, shall first be obtained. No such aid shall be located within the territorial jurisdiction of any foreign country without the consent of the government thereof. Nothing in this title shall be deemed to limit the authority granted by the Federal Aviation Act of 1958, as amended (ch. 20 of title 49), or by the provisions of sections 7392 and 7394 of title 10.

(Aug. 4, 1949, ch. 393, 63 Stat. 500; Sept. 3, 1954, ch. 1263, § 31, 68 Stat. 1237; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1404, 72 Stat. 808; Oct. 14,

1966, Pub. L. 89-662, § 2, 80 Stat. 912; Oct. 18, 1976, Pub. L. 94-546, § 1(4), (5), 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 50n (June 26, 1948, ch. 672, § 2, 62 Stat. 1050). 81st Congress, House Report No. 557.

REFERENCES IN TEXT

The Federal Aviation Act of 1958, referred to in text, is classified generally to chapter 20 (§ 1301 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of title 49.

AMENDMENTS

1976—Pub. L. 94-546, § 1(5), substituted in section catchline "Federal Aviation Administration" for "Federal Aviation Agency".

Pub. L. 94-546, § 1(4), substituted in first sentence "Federal Aviation Administration" for "Federal Aviation Agency" in both places where it appeared.

1966—Pub. L. 89-662 substituted "granted by the Federal Aviation Act of 1958, as amended (ch. 20 of title 49), or by the provisions of sections 7392 and 7394 of title 10" for "granted by the provisions of section 458 of Title 5, or by section 475(e) of Title 49 or subchapter III of chapter 9 of that title".

1958—Pub. L. 85-726 substituted "Administrator of the Federal Aviation Agency" for "Administrator of Civil Aeronautics", and "Federal Aviation Agency" for "Civil Aeronautics Administration".

1954—Act Sept. 3, 1954, substituted "section 175(e) of Title 49 or subchapter III of chapter 9 of that title" for "sections 175(f) or 451 to 458 of Title 49".

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of this section by Pub. L. 85-726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified, and took office on October 31, 1958.

CROSS REFERENCES

Air navigational facilities on floating ocean stations, see section 90 of this title.

§ 83. Unauthorized aids to maritime navigation; penalty

No person, or public body, or instrumentality, excluding the armed services, shall establish, erect, or maintain any aid to maritime navigation in or adjacent to the waters subject to the jurisdiction of the United States, its territories or possessions, or the Trust Territory of the Pacific Islands, or on the high seas if that person, or public body, or instrumentality is subject to the jurisdiction of the United States, without first obtaining authority to do so from the Coast Guard in accordance with applicable regulations. Whoever violates the provisions of this section or any of the regulations issued by the Secretary in accordance herewith shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation continues shall be considered as a new offense.

(Aug. 4, 1949, ch. 393, 63 Stat. 500; May 14, 1974, Pub. L. 93-283, § 1(1), 88 Stat. 139.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 759 (June 20, 1906, ch. 3447, § 3, 34 Stat. 324; June 17, 1910, ch. 301, § 6, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1974—Pub. L. 93-283 substituted "maritime navigation in or adjacent to the waters subject to the jurisdiction of the United States, its territories or possessions, or the Trust Territory of the Pacific Islands, or on the high seas if that person, or public body, or instrumentality is subject to the jurisdiction of the United States, without first obtaining authority" for "maritime navigation without first obtaining authority".

CROSS REFERENCES

Aids to navigation—
Authorized, see section 81 of this title.
Damages for injuring or destroying, deposit of payments, see section 642 of this title.
Rewards for apprehension and conviction of persons interfering with, see section 643 of this title.
Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 84 of this title.

§ 84. Interference with aids to navigation; penalty

It shall be unlawful for any person, or public body, or instrumentality, excluding the armed forces, to remove, change the location of, obstruct, wilfully damage, make fast to, or interfere with any aid to navigation established, installed, operated, or maintained by the Coast Guard pursuant to section 81 of this title, or with any aid to navigation lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of this title, or to anchor any vessel in any of the navigable waters of the United States so as to obstruct or interfere with range lights maintained therein. Whoever violates the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than $500 for each offense. Each day during which such violation shall continue shall be considered as a new offense.

(Aug. 4, 1949, ch. 393, 63 Stat. 500.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946, ed., §§ 761, 762 (May 14, 1908, ch. 168, § 6, 35 Stat. 162; June 17, 1910, ch. 301, § 6, 36 Stat. 538; Mar. 3, 1915, ch. 81, § 8, 38 Stat. 928; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432).

Changes were made in phraseology. 81st Congress, House Report No. 557.

CROSS REFERENCES

Aids to navigation—
Damages for injuring or destroying, deposit of payments, see section 642 of this title.
Rewards for apprehension and conviction of persons interfering with, see section 643 of this title.
Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 85. Aids to maritime navigation; penalty

The Secretary shall prescribe and enforce necessary and reasonable rules and regulations,

for the protection of marine navigation, relative to the establishment, maintenance, and operation of lights and other signals on fixed and floating structures in or over waters subject to the jurisdiction of the United States and in the high seas for structures owned or operated by persons subject to the jurisdiction of the United States. Any owner or operator of such a structure, excluding an agency of the United States, who violates any of the rules or regulations prescribed hereunder, commits a misdemeanor and shall be punished, upon conviction thereof, by a fine of not exceeding $100 for each day which such violation continues.

(Aug. 4, 1949, ch. 393, 63 Stat. 501; June 4, 1956, ch. 351, § 1, 70 Stat. 226; May 14, 1974, Pub. L. 93-283, § 1(2), 88 Stat. 139.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 760 (May 14, 1908, ch. 168, § 5, 35 Stat. 162).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1974—Pub. L. 93-283 deleted from the catchline "on fixed structures" following "maritime navigation" and substituted "fixed and floating structures in or over waters subject to the jurisdiction of the United States and in the high seas for structures owned or operated by persons subject to the jurisdiction of the United States" for "fixed structures in or over navigable waters of the United States".

1956—Act June 4, 1956, vested in the Secretary of the Department in which the Coast Guard is operating rule-making authority, for the protection of maritime navigation, relative to the establishment, maintenance, and operation of lights and other signals on fixed structures in or over navigable waters of the United States, excluded agencies of United States from its provisions, and changed language of section generally.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 86. Marking of obstructions

The Secretary may mark for the protection of navigation any sunken vessel or other obstruction existing on the navigable waters or waters above the continental shelf of the United States in such manner and for so long as, in his judgment, the needs of maritime navigation require. The owner of such an obstruction shall be liable to the United States for the cost of such marking until such time as the obstruction is removed or its abandonment legally established or until such earlier time as the Secretary may determine. All moneys received by the United States from the owners of obstructions, in accordance with this section, shall be covered into the Treasury of the United States as miscellaneous receipts. This section shall not be construed so as to relieve the owner of any such obstruction from the duty and responsibility suitably to mark the same and remove it as required by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 501; Sept. 17, 1965, Pub. L. 89-191, 79 Stat. 822; May 14, 1974, Pub. L. 93-283, § 1(3), 88 Stat. 139.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 736 (R.S. 4676; June 17, 1910, ch. 301, § 6, 36 Stat. 538; Aug. 16, 1937, ch. 665, § 1, 50 Stat. 666; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1974—Pub. L. 93-283 substituted "the navigable waters or waters above the continental shelf of the United States" for "any navigable waters of the United States".

1965—Pub. L. 89-191 vested sole responsibility for wreck marking in the Coast Guard by giving the Secretary discretionary authority to mark wrecks or other similar obstructions for as long as in his judgment the needs of maritime navigation may require, by removing reference to responsibility of the Department of the Army to mark wrecks, after abandonment and before removal, and by giving the Secretary the authority to terminate an owner's liability to pay the cost of marking a wreck.

[§ 87. Repealed. Pub. L. 94-546, § 1(6), (7), Oct. 18, 1976, 90 Stat. 2519]

Section, act Aug. 4, 1949, ch. 393, § 1, 63 Stat. 501, related to the color and numbering of buoys along the coast, or in bays, harbors, sounds, or channels, as indicating whether such buoys were to be passed on the starboard or port hand and prescribed the coloring for buoys in channel ways.

§ 88. Saving life and property

(a) In order to render aid to distressed persons, vessels, and aircraft on and under the high seas and on and under the waters over which the United States has jurisdiction and in order to render aid to persons and property imperiled by flood, the Coast Guard may:

(1) perform any and all acts necessary to rescue and aid persons and protect and save property;

(2) take charge of and protect all property saved from marine or aircraft disasters, or floods, at which the Coast Guard is present, until such property is claimed by persons legally authorized to receive it or until otherwise disposed of in accordance with law or applicable regulations, and care for bodies of those who may have perished in such catastrophes;

(3) furnish clothing, food, lodging, medicines, and other necessary supplies and services to persons succored by the Coast Guard; and

(4) destroy or tow into port sunken or floating dangers to navigation.

(b) The Coast Guard may render aid to persons and protect and save property at any time and at any place at which Coast Guard facilities and personnel are available and can be effectively utilized.

(Aug. 4, 1949, ch. 393, 63 Stat. 501; June 12, 1970, Pub. L. 91-278, § 1(3), 84 Stat. 304.)

HISTORICAL AND REVISION NOTES

Derived from title 14, U.S.C., 1946 ed., §§ 29, 53, 55, 60, 61, 62, 63, 104, and title 34, U.S.C., 1946 ed., § 471 (R.S. 1536, R.S. 2759; June 18, 1878, ch. 265, § 4, 20 Stat. 163; Apr. 19, 1906, ch. 1640, §§ 1-3, 34 Stat. 123; May 12, 1906, ch. 2454, 34 Stat. 190; June 24, 1914, ch. 124, 38 Stat. 387; Aug. 29, 1916, ch. 417, 39 Stat. 601; Aug. 6, 1947, ch. 502, 61 Stat. 786).

This section broadens existing law in that it authorizes the Coast Guard to engage in saving life and property in the broadest possible terms, without limitation as to place. This section reflects existing sentiment as to Coast Guard functions in relation to saving life and property. There is no intention to supersede or conflict with the present authority of the Civil Aeronautics Board to investigate certain aircraft wrecks. 81st Congress, House Report No. 557.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-278 substituted "on and under the high seas and on and under the waters" for "on the high seas and on waters", in the introductory text.

CROSS REFERENCES

Clothing for destitute shipwrecked persons, see section 486 of this title.

§ 89. Law enforcement

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

(1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and

(2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

(Aug. 4, 1949, ch. 393, 63 Stat. 502; Aug. 3, 1950, ch. 536, § 1, 64 Stat. 406.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 45-47, 51, 52, 66, 67, 104, and on title 33, U.S.C., 1946 ed., § 755 (R.S. 2747, 2758, 2760, 2762; June 18, 1878, ch. 265, § 4, 20 Stat. 163; June 16, 1880, ch. 235, 21 Stat. 263; June 22, 1936, ch. 705, §§ 1-3, 49 Stat. 1820; July 11, 1941, ch. 290, § 7, 55 Stat. 585).

The words "or such merchandise" are inserted in the last clause of subsection (a) in order to provide for situations where it may be desirable to seize merchandise without seizing the vessel.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1950—Subsec. (a). Act Aug. 3, 1950, struck out word "to" preceding "examine" in second sentence.

CROSS REFERENCES

Enforcement of laws—
Generally, see section 2 of this title.
Customs laws, see section 143 of this title.
Stopping vessels, immunity of Coast Guard officer, see section 637 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 33 section 1014.

§ 90. Ocean stations

(a) The Coast Guard is authorized to operate and maintain floating ocean stations for the purpose of providing search and rescue, communication, and air navigation facilities, and meteorological services in such ocean areas as are regularly traversed by aircraft of the United States.

(b) The Coast Guard is authorized, subject to approval by the Administrator of the Federal Aviation Administration, to operate, on floating ocean stations authorized herein, such air navigation facilities as the Administrator may find necessary or desirable for the safe and efficient protection and control of air traffic. The Coast Guard, in establishing, maintaining, or operating such air navigation facilities shall request the cooperation of the Administrator of the Federal Aviation Administration to the end that the personnel and facilities of the Federal Aviation Administration will be utilized to the fullest possible advantage.

(Aug. 4, 1949, ch. 393, 63 Stat. 502; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1404, 72 Stat. 808; Oct. 18, 1976, Pub. L. 94-546, § 1(8), 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 50k, 50*l* (June 22, 1948, ch. 600, 62 Stat. 574).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-546 substituted "Federal Aviation Administration" for "Federal Aviation Agency" wherever appearing.

1958—Subsec. (b). Pub. L. 85-726 substituted "Administrator of the Federal Aviation Agency" for "Administrator of Civil Aeronautics" in two instances, and "Federal Aviation Agency" for "Civil Aeronautics Administration".

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of this section by Pub. L. 85-726 shall be effective on the

60th day following the date on which the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified, and took office on October 31, 1958.

§ 91. Safety of naval vessels

The captain of the port, Coast Guard district commander, or other officer of the Coast Guard designated by the Commandant thereof, or the Governor of the Panama Canal in the case of the territory and waters of the Canal Zone, shall so control the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, as to insure the safety or security of such United States naval vessels as may be present in his jurisdiction. In territorial waters of the United States where immediate action is required, or where representatives of the Coast Guard are not present, or not present in sufficient force to exercise effective control of shipping as provided herein, the senior naval officer present in command of any naval force may control the anchorage or movement of any vessel, foreign or domestic, to the extent deemed necessary to insure the safety and security of his command.

(Aug. 4, 1949, ch. 393, 63 Stat. 503.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., § 48a (Nov. 15, 1941, ch. 471, § 1, 55 Stat. 763).

Changes were made in phraseology. 81st Congress, House Report No. 557.

Change of Name

The Governor of the Panama Canal was redesignated Governor of the Canal Zone by act Sept. 26, 1950, ch. 1049, § 2(b), 64 Stat. 1038.

Section Referred to in Other Sections

This section is referred to in title 50 section 191b.

§ 92. Secretary; general powers

For the purpose of executing the duties and functions of the Coast Guard the Secretary may within the limits of appropriations made therefor:

(a) establish, change the limits of, consolidate, discontinue, and re-establish Coast Guard districts;

(b) arrange with the Secretaries of the Army, Navy and Air Force to assign officers and enlisted men of the Coast Guard to any school maintained by the Army, Navy, and Air Force, for instruction and training, including aviation schools;

(c) construct, or cause to be constructed, Coast Guard shore establishments;

(d) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire vessels, and subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended, dispose of them;

[(e) Repealed. Oct. 31, 1951, ch. 654, § 1(32), 65 Stat. 702.]

(f) acquire land or interests in land, including acceptance of gifts thereof, where required for the purpose of carrying out any project or purpose for which an appropriation has been made;

(g) exchange land or interests in land in part or in full payment for such other land or interests in land as may be necessary or desirable, the balance of such part payment to be defrayable in accordance with other provisions of this section;

(h) exercise any of the powers vested by this title in the Commandant in any case in which the Secretary deems it appropriate; and

(i) do any and all things necessary to carry out the purposes of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 503; Oct. 31, 1951, ch. 654, §§ 1(32), 2(9), 3(3), 65 Stat. 702, 707, 708.)

Historical and Revision Notes

This section grants broad general powers concerning policy matters to the Secretary. Many of the powers are contained in existing law but some are enlarged and some additional powers are added as explained following.

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 95 (Aug. 29, 1916, ch. 417, 39 Stat. 601). Said section has been divided. The provision authorizing the Secretary to man stations seems more appropriately given to the operational head of the Service, the Commandant, and for that reason is incorporated in section 93(c) of this title.

Subsection (b) is based on title 14, U.S.C., 1946 ed., §§ 28, 42 (Aug. 16, 1916, ch. 417, 39 Stat. 601; July 3, 1926, ch. 742, § 11, 44 Stat. 817). These sections were rewritten in order to broaden existing authority in regard to the training of Coast Guard personnel at schools of the other armed forces, thus approaching a practice of war time, and making for economy in the training of Service personnel; such training would be on a basis mutually satisfactory to the Secretaries involved.

Subsection (c) is based on R.S. 4242 and on title 14, U.S.C., 1946 ed., §§ 29, 93, 94, 98a (R.S. 4245, 4249; May 4, 1882, ch. 117, § 2, 22 Stat. 56; Aug. 29, 1916, ch. 417, 39 Stat. 601; June 6, 1940, ch. 257, § 4, 54 Stat. 247; Aug. 6, 1947, ch. 502, 61 Stat. 786). This subsection broadens existing law in that it provides general legislative authority for the construction and disposal of shore establishments of all types including aviation stations.

Subsection (d) is based in part on title 14, U.S.C., 1946 ed., §§ 55, 57, 69, 109, and in part on title 31, U.S.C., 1946 ed., §§ 487, 720, (R.S. 2748, 3618, 3692; June 18, 1878, ch. 265, § 3, 20 Stat. 163; Aug. 29, 1916, ch. 417, 39 Stat. 601). This subsection broadens existing law in that it provides general legislative authority for the design, construction, acquisition by other means, and disposal of vessels.

Subsection (e) is new. It is derived from title 14, U.S.C., 1946 ed., § 31b (June 6, 1941, ch. 177, 55 Stat. 247 [which was originally repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(28), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583]) which provides for the exchange of vehicles, planes, and engines; similar authority in relation to vessels, is granted to the Secretary by this subsection and should prove advantageous to the Government.

Subsection (f) is based on title 14, U.S.C., 1946 ed., § 96 and on title 33, U.S.C., 1946 ed., §§ 729, 730, 731 (Mar. 3, 1875, ch. 130, § 1, 18 Stat. 372; Mar. 4, 1909, ch. 299, 35 Stat. 972; June 17, 1910, ch. 301, § 9, 36 Stat. 538; Mar. 4, 1913, ch. 168, 37 Stat. 1018). This subsection broadens the power of the Secretary to receive as a gift or purchase sites for stations, to include the acquisition of land by any means provided it is for the purpose of executing duties and functions of the Coast Guard.

Subsection (g) is based in part on title 33, U.S.C., 1946 ed., § 732 (Aug. 28, 1916, ch. 414, § 2, 39 Stat. 538; July 11, 1941, ch. 290, § 1, 55 Stat. 584) and grants authority to the Secretary to exchange interests in land as payment or part payment for other interests in

land for the purpose of executing the duties and functions of the Coast Guard; this authority, on the basis of past experience, will prove advantageous to the Government.

Subsection (h) is new and merely insures that the Secretary may exercise any of the powers granted to the Commandant in this title.

Subsection (i) is based in part on title 14, U.S.C., 1946 ed., §§ 51, 131 (R.S. 2756, 2758) and insures that the Secretary may do anything necessary to carry out the purposes of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949 as amended, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377. Provisions of that act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of title 40, and Tables volume.

AMENDMENTS

1951—Subsec. (c). Act Oct. 31, 1951, § 3(3), struck out a provision relating to sale or other disposition of unsuitable or unserviceable shore establishments, and disposition of the net monies received therefrom.

Subsec. (d). Act Oct. 31, 1951, § 2(9), inserted the reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, and struck out the requirement that net monies received from the disposition of vessels be covered into the Treasury.

Subsec. (e). Act Oct. 31, 1951, § 1(32), repealed subsec. (e), which empowered the Secretary to exchange vessels and parts thereof in part payment for new vessels.

LEASING OF EXISTING HOUSING FOR ASSIGNMENT AS PUBLIC QUARTERS TO MILITARY PERSONNEL AND DEPENDENTS

Pub. L. 89-381, § 2, Mar. 30, 1966, 80 Stat. 97, during fiscal years 1967 through and including 1968, authorized the Secretary of the Department in which the Coast Guard was operating to lease existing housing facilities at or near Coast Guard installations in the United States and Puerto Rico for assignment as public quarters to military personnel and their dependents.

AIRCRAFT

Pub. L. 94-387, title I, § 101, Aug. 14, 1976, 90 Stat. 1172, provided in part: "That the number of aircraft on hand at any one time shall not exceed one hundred and seventy-nine exclusive of planes and parts stored to meet future attrition."

Similar provisions were contained in the following prior Appropriation Acts:

Nov. 24, 1975, Pub. L. 94-134, title I, § 101, 89 Stat. 696.

Aug. 28, 1974, Pub. L. 93-391, title I, § 101, 88 Stat. 769.

Aug. 16, 1973, Pub. L. 93-98, title I, § 101, 87 Stat. 330.

Aug. 22, 1972, Pub. L. 93-398, title I, § 101, 86 Stat. 581.

Aug. 10, 1971, Pub. L. 92-74, title I, § 101, 85 Stat. 202.

Dec. 26, 1969, Pub. L. 91-168, title I, § 101, 83 Stat. 454.

Aug. 8, 1968, Pub. L. 90-464, title I, § 101, 82 Stat. 654.

Oct. 23, 1967, Pub. L. 90-112, title II, § 201, 81 Stat. 312.

June 29, 1966, Pub. L. 89-474, title I, § 101, 80 Stat. 223.

June 30, 1965, Pub. L. 89-57, title I, § 107, 79 Stat. 197.

Aug. 1, 1964, Pub. L. 88-392, title I, § 101, 78 Stat. 369.

June 13, 1963, Pub. L. 88-39, title I, § 101, 77 Stat. 59.

Aug. 6, 1962, Pub. L. 87-575, title I, § 101, 76 Stat. 311.

Aug. 21, 1961, Pub. L. 87-159, title I, § 101, 75 Stat. 395.

June 30, 1960, Pub. L. 86-561, title I, § 101, 74 Stat. 285.

June 11, 1959, Pub. L. 86-39, title I, § 101, 73 Stat. 67.

Mar. 28, 1958, Pub. L. 85-354, title I, § 101, 72 Stat. 62.

May 27, 1957, Pub. L. 85-37, title I, § 101, 71 Stat. 37.

Apr. 2, 1956, ch. 161, title I, § 101, 70 Stat. 93.

June 1, 1955, ch. 113, title I, § 101, 69 Stat. 74.

May 28, 1954, ch. 242, title I, § 101, 68 Stat. 146.

June 18, 1953, ch. 132, title I, § 101, 67 Stat. 69.

June 30, 1952, ch. 523, title I, § 101, 66 Stat. 291.

Aug. 11, 1951, ch. 301, title I, § 101, 65 Stat. 185.

Sept. 6, 1950, ch. 896, ch. IV, title I, § 101, 64 Stat. 639.

June 30, 1949, ch. 286, title I, § 101, 63 Stat. 367.

June 19, 1948, ch. 558, title I, § 101, 62 Stat. 563.

July 1, 1947, ch. 186, title I, § 101, 61 Stat. 227.

July 12, 1946, ch. 569, § 1, 60 Stat. 531.

APPROPRIATION AUTHORIZATION FOR CONSTRUCTION OF SHORE OR OFFSHORE ESTABLISHMENTS OR FOR PROCUREMENT OF VESSELS OR AIRCRAFT

Pub. L. 88-45, § 1, June 21, 1963, 77 Stat. 68, provided: "That after fiscal year 1964, funds may not be appropriated to or for the use of the Coast Guard for the construction of shore or offshore establishments, or for the procurement of vessels or aircraft, unless the appropriation of such funds has been authorized by legislation enacted after December 31, 1963."

CROSS REFERENCES

Acceptance of gifts to and administration of Coast Guard General Gift Fund, see section 2601 of Title 10, Armed Forces.

Delegation of powers, see section 631 of this title.

Proceeds from transfer, sale, etc., of property, see section 485 of Title 40, Public Buildings, Property, and Works.

Regulations and orders, power to promulgate, see section 633 of this title.

Report of expenditures and operations, see section 651 of this title.

Secretary defined, see section 5 of this title.

Supervision of Commandant's execution of powers and functions, see section 632 of this title.

Warrant officers, appointment by Secretary, see section 213 of this title.

§ 93. Commandant; general powers

For the purpose of executing the duties and functions of the Coast Guard the Commandant may:

(a) maintain water, land, and air patrols, and ice-breaking facilities;

(b) establish and prescribe the purpose of, change the location of, consolidate, discontinue, re-establish, maintain, operate, and repair Coast Guard shore establishments;

(c) assign vessels, aircraft, vehicles, aids to navigation, equipment, appliances, and supplies to Coast Guard districts and shore establishments, and transfer any of the foregoing from one district or shore establishment to another;

(d) conduct experiments, investigate, or cause to be investigated, plans, devices, and inventions relating to the performance of any Coast Guard function and cooperate and coordinate such activities with other Government agencies and with private agencies;

(e) conduct any investigations or studies that may be of assistance to the Coast Guard in the

performance of any of its powers, duties, or functions;

(f) collect, publish, and distribute information concerning Coast Guard operations;

(g) conduct or make available to personnel of the Coast Guard such specialized training and courses of instruction, including correspondence courses, as may be necessary or desirable for the good of the service;

(h) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended, dispose of them;

(i) acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies;

(j) equip, operate, maintain, supply, and repair Coast Guard districts and shore establishments;

[(k) Repealed. Oct. 31, 1951, ch. 654, § 1(33), 65 Stat. 702.]

(*l*) establish, equip, operate, and maintain shops, depots, and yards for the manufacture and construction of aids to navigation, equipment, apparatus, vessels, vehicles, and aircraft not normally or economically obtainable from private contractors, and for the maintenance and repair of any property used by the Coast Guard;

(m) accept and utilize, in times of emergency in order to save life or protect property, such voluntary services as may be offered to the Coast Guard;

(n) rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the Treasury;

(*o*) grant, under such terms and conditions as are deemed advisable, permits, licenses, easements, and rights-of-way over, across, in, and upon lands under the control of the Coast Guard when in the public interest and without substantially injuring the interests of the United States in the property thereby affected;

(p) establish, install, abandon, re-establish, reroute, operate, maintain, repair, purchase, or lease such telephone and telegraph lines and cables, together with all facilities, apparatus, equipment, structures, appurtenances, accessories, and supplies used or useful in connection with the installation, operation, maintenance, or repair of such lines and cables, and acquire such real property rights of way, easements, or attachment privileges as may be required for the installation, operation, and maintenance of such lines, cables, and equipment; and

(q) establish, install, abandon, reestablish, change the location of, operate, maintain, and repair radio transmitting and receiving stations.

(Aug. 4, 1949, ch. 393, 63 Stat. 504; Aug. 3, 1950, ch. 536, § 2, 64 Stat. 406; Oct. 31, 1951, ch. 654, §§ 1(33), 2(10), 4(1), 65 Stat. 702, 707, 709; Oct. 18, 1976, Pub. L. 94-546, § 1(9), 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

This section grants powers to the Commandant concerning, in general, operations within the Service and the internal functioning of the Service. Many of the powers are contained in existing law, but some are enlarged, and some additional powers are added as explained following.

Subsection (a) is derived from title 14, U.S.C., 1946 ed., § 53, and title 34, U.S.C., 1946 ed., § 471 (R.S. 1536). The authority to order vessels to cruise along the coasts should be in the operational head of the Service, and not in the President. This section is changed to cover adequately the necessary present day cruising and patrolling.

Subsection (b) is derived from R.S. 4242 and title 14, U.S.C., 1946 ed., §§ 29, 93, 94, 95, 97, 98a (R.S. 4245, 4249; May 4, 1882, ch. 117, §§ 2, 3, 22 Stat. 56; Aug. 29, 1916, ch. 417, 39 Stat. 601; Aug. 6, 1947, ch. 502, 61 Stat. 786; June 6, 1940, ch. 257, § 4, 54 Stat. 247), and specifically grants to the Commandant authority in regard to the establishment, discontinuance, and change of Coast Guard shore establishments other than Coast Guard districts. This power must exist inherently in order for the Service to function efficiently.

Subsection (c) is derived from title 14, U.S.C., 1946 ed., §§ 54, 97, 112 (May 4, 1882, ch. 117, § 3, 22 Stat. 56; May 30, 1908, ch. 231, 35 Stat. 553; Apr. 21, 1910, ch. 182, § 2, 36 Stat. 326), and specifically grants to the Commandant authority in regard to the assignment of vessels, vehicles, aids to navigation, and other equipment. This power is inherent to the proper functioning of any Service.

Subsection (d) is based on title 14, U.S.C., 1946 ed., § 91 (June 18, 1878, ch. 265, § 7, 20 Stat. 164; June 10, 1921, ch. 18, § 304, 42 Stat. 24; July 3, 1926, ch. 742, § 9, 44 Stat. 817). Said section has been divided. The part dealing with investigation of plans and inventions is covered in this subsection in broader terms, and the other parts are covered in general terms in section 632 of this title.

Subsection (e) is based on title 14, U.S.C., 1946 ed., § 111 (June 18, 1878, ch. 265, § 9, 20 Stat. 164). This section has been rewritten to broaden the authority to include any investigation or study that may be of assistance to the Coast Guard, the limitation as to investigation of shipwrecks having been eliminated.

Subsection (f) is new and is intended to give legislative recognition to the importance of disseminating information by the Coast Guard for the promotion of safety at sea, life-saving techniques, and other Coast Guard activities.

Subsection (g) is new and provides for the training of Coast Guard personnel at other than schools or institutions of the other armed forces. Such training is essential and has been carried on under the authority of appropriation acts for many years.

Subsection (h) is based in part on title 14, U.S.C., 1946 ed., §§ 69, 108, 109, (R.S. 2748; June 20, 1874, ch. 344, § 9, 18 Stat. 127; June 18, 1878, ch. 265, § 3, 20 Stat. 163), and is intended to complement the authority granted to the Secretary in sec. 92(d) of this title granting similar authority to the Commandant as to smaller craft.

Subsection (i) is based in part on title 14, U.S.C., §§ 108, 109, and on title 33, U.S.C., 1946 ed., § 752 (June 20, 1874, ch. 344, § 9, 18 Stat. 127; June 18, 1878, ch. 265, § 3, 20 Stat. 163; Mar. 4, 1913, ch. 168, 37 Stat. 10183, and grants power to the Commandant to acquire and dispose of various equipment and supplies. The authority with respect to the acceptance of such equipment as a gift is new.

Subsection (j) is new and grants power to the Commandant to operate and maintain shore establishments; previously such authority has been inferred from statutes providing for the establishment of shore stations; again such authority is inherent to the functioning of any Service, and this section will provide no greater authority than has been exercised in the past.

Subsection (k) is based on title 14, U.S.C., 1946 ed., § 31b (June 6, 1941, ch. 177, 55 Stat. 247 [which was

originally repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(28), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583]). The primary authority is granted to the Commandant as well as to the Secretary inasmuch as such exchange seems to be an operational matter and the items which may be exchanged have been enlarged by the addition of aids to navigation, appliances, equipment, and supplies.

Inasmuch as the act cited above applies to the Navy as well as the Coast Guard it is not scheduled for repeal but is being amended by section 13 of this act to eliminate reference to the Coast Guard.

Subsection (l) is new and is deemed desirable in order to give legislative authority for existing yards, and for the procurement of needed equipment and material in case such is not normally or economically obtainable from private contractors.

Subsection (m) is based on title 14, U.S.C., 1946 ed., §§ 110, 192 (June 20, 1874, ch. 344, § 6, 18 Stat. 127; June 18, 1878, ch. 265, § 10, 20 Stat. 165; July 3, 1926, ch. 742, § 9, 44 Stat. 817). The power to accept volunteer services is enlarged to include all services offered in time of emergency, to save life or protect property, and the restrictive provisions relating to lifeboat stations only have been eliminated.

Subsection (n) is new and grants authority to the Commandant to lease real property under the control of the Coast Guard, when not immediately needed in Coast Guard operations. Such authority will be advantageous to the Government, on the basis of past experience.

Subsection (o) is new and is supplementary to subsection (n) of this section. It grants further authority to the Commandant permitting him to grant minor interests in land which is under control of the Coast Guard. This will avoid the necessity of special acts of Congress in each of such instances.

Subsection (p) is new and is necessary to give proper authority for the maintenance of networks of wires and cables, in some cases over or along private property or public highways. These networks are in existence at the present time and are essential for the Service to carry out its functions.

Subsection (q) is new and is necessary in order to provide clear authority for the maintenance of radio stations which are essential to Coast Guard functions.

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (h), is act June 30, 1949, ch. 288, 63 Stat. 377. Provisions of that act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of title 40, and Tables volume.

AMENDMENTS

1976—Subsec. (n). Pub. L. 94-546 substituted "to be deposited in the Treasury" for "to be covered into the Treasury".

1951—Subsec. (h). Act Oct. 31, 1951, § 2(10), inserted the reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, and struck out the requirement that net monies received from the disposition of patrol boats, etc., be covered into the Treasury.

Subsec. (i). Act Oct. 31, 1951, § 4(1), inserted the provision permitting discontinuance of aids to navigation, etc., and struck out the provision permitting discontinuance or other disposition of obsolete, unsuitable, or unservicable aids to navigation, etc., and the requirement that the net monies received from such disposition be covered into the Treasury.

Subsec. (k). Act Oct. 31, 1951, § 1(33), repealed subsec. (k), which empowered the Commandant to exchange aircraft, vehicles, and parts thereof, and obsolete, unsuitable, or unservicable machines, tools, aids to navigation, appliances, equipment, and supplies in part payment for new items of the same or similar character.

1950—Subsec. (o). Act Aug. 3, 1950, struck out the word "and" following the semicolon.

Subsec. (p). Act Aug. 3, 1950, struck out period at end of paragraph and inserted a semicolon and the word "and".

CROSS REFERENCES

Advancements and allotments to seamen, enforcement of law, see section 599 of Title 46, Shipping.

Anchorage grounds, marking, see section 472 of Title 33, Navigation and Navigable Waters.

Annual list of vessels, see section 4 of Title 46, Shipping.

Annual reports to Congress, see section 651 of this title.

Appeal from—

Certificate of complement of officers and crew, see section 222 of Title 46, Shipping.

Decision in investigations of marine casualties, see section 239(g) of Title 46.

Appointment, see section 44 of this title.

Approval of contracts, plans and specifications for passenger vessels, see section 369 of Title 46, Shipping.

Assignment of personnel to duty, see section 632 of this title.

Coast Guard Academy, appointment of superintendent, see section 181 of this title.

Coast Guard Auxiliary, administration, see section 821 of this title.

Execution of powers and functions, see section 632 of this title.

Flag officers, responsibility for reserve affairs to Commandant, see section 264 of Title 10, Armed Forces.

Inspection laws, see section 372 et seq. of Title 46, Shipping.

Issuance of certificates of convention radio particulars to vessels, see section 359 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Personal money allowances, see section 414 of Title 37, Pay and Allowances of the Uniformed Services.

Proceeds from transfer, sale, etc., of property, see section 485 of Title 40, Public Buildings, Property, and Works.

Procurement of all supplies and services, see section 2301 et seq. of Title 10, Armed Forces.

Retirement, see section 46 of this title.

§ 94. Oceanographic research

The Coast Guard shall conduct such oceanographic research, use such equipment or instruments, and collect and analyze such oceanographic data, in cooperation with other agencies of the Government, or not, as may be in the national interest.

(Added Pub. L. 87-396, § 1, Oct. 5, 1961, 75 Stat. 827.)

CHAPTER 7—COOPERATION WITH OTHER AGENCIES

Sec.
141. General.
142. State Department.
143. Treasury Department.
144. Department of the Army and Department of the Air Force.
145. Navy Department.
146. United States Postal Service.
147. Department of Commerce.
148. Maritime instruction.
149. Detail of officers and men to assist foreign governments.
150. Coast Guard officers as attachés to missions.
151. Contracts with Government-owned establishments for work and material.

HISTORICAL AND REVISION NOTES

In connection with its maritime police, promoting safety of life and property at sea, and aiding navigation functions, the Coast Guard frequently finds it advisable to utilize the services of other agencies and correlatively, frequently finds its facilities useful to other agencies. This high degree of cooperation, a natural attribute of a producing and servicing agency, is important not only because it greatly promotes the quantity and quality of the services performed, but because the concentration of these functions in one agency results in savings to the Government of man-power, funds, and equipment. In the belief that legislative recognition of and specific power to continue this needed cooperation are desirable, Chapter 7 of this title contains a group of sections on cooperation with designated agencies. This is not meant to be a complete listing of cooperating agencies, but rather the designation of the principal ones. In addition, the first section of the chapter deals with availability of Coast Guard personnel and facilities to other agencies and the availability of other agency personnel and facilities to the Coast Guard. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546, § 1(12), Oct. 18, 1976, 90 Stat. 2519, substituted "United States Postal Service" for "Post Office Department" in item 146.

§ 141. General

(a) The Coast Guard may, when so requested by proper authority, utilize its personnel and facilities to assist any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia, to perform any activity for which such personnel and facilities are especially qualified.

(b) The Coast Guard, with the consent of the head of the agency concerned, may avail itself of such officers and employees, advice, information, and facilities of any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia as may be helpful in the performance of its duties. In connection with the utilization of personal services of employees of state or local governments, the Coast Guard may make payments for necessary traveling and per diem expenses as prescribed for Federal employees by the standardized Government travel regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 505.)

HISTORICAL AND REVISION NOTES

This section is based in part on title 33, U.S.C. 1946 ed., § 756 (Mar. 3, 1915, ch. 81, § 6, 38 Stat. 928), and authorizes the Coast Guard to use its personnel and facilities to assist other Government agencies when requested and, correlatively, authorizes the Coast Guard to utilize the personnel and facilities of other agencies. It is believed desirable to have this authority spelled out by statute because in times of emergency, for example floods, it sometimes becomes most advantageous to cooperate in this manner. 81st Congress, House Report No. 557.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 46 section 1481.

§ 142. State Department

The Coast Guard, through the Secretary, may exchange information, through the Secretary of State, with foreign governments and suggest to the Secretary of State international collaboration and conferences on all matters dealing with the safety of life and property at sea, other than radio communication.

(Aug. 4, 1949, ch. 393, 63 Stat. 505.)

HISTORICAL AND REVISION NOTES

Because of the numerous situations in which it is necessary for the Coast Guard to deal with foreign governments, particularly in the field of safety of life and property at sea, the Coast Guard and the State Department agree that a provision such as this is desirable.

The international character of many Coast Guard functions makes it more and more necessary for the Service to be an initiating or participating agency in international collaboration. Examples of international meetings concerned with matters affecting the Coast Guard include those which dealt with the International Rules of the Road, international load lines, the International Code of Signals, safety at sea, and international telecommunications. It is highly desirable that there be a clear-cut legislative expression of Coast Guard cooperation with the State Department on proposed international conferences dealing with various phases of Coast Guard activities, such as aids to navigation, life-saving equipment, navigation and communication equipment other than radio communication, regulation of dangerous cargoes, international rules of the road, safety requirements and equipment of transoceanic aircraft and vessels, and safe manning standards and efficiency of personnel employed on transoceanic aircraft and vessels. Provisions for similar relationship between the Civil Aeronautical Board and the State Department appear in the act of June 23, 1938, as amended, 52 Stat. 984 (title 49, U.S.C., 1946 ed., §§ 425(c), 602). 81st Congress, House Report No. 557.

CROSS REFERENCES

Coast Guard officers as attachés to missions, see section 150 of this title.

Detail of officers and men to assist foreign governments, see section 149 of this title.

§ 143. Treasury Department

Commissioned, warrant, and petty officers of the Coast Guard are deemed to be officers of the customs and when so acting shall, insofar as performance of the duties relating to customs laws are concerned, be subject to regulations issued by the Secretary of the Treasury governing officers of the customs.

(Aug. 4, 1949, ch. 393, 63 Stat. 506.)

HISTORICAL AND REVISION NOTES

Based on title 19, U.S.C., 1946 ed., §§ 1401(*l*), 1709(b) (Aug. 5, 1935, ch. 435, title II, § 201, 49 Stat. 521; Aug. 5, 1935, ch. 438, title IV, § 401, 49 Stat. 529).

This section will not repeal the sections cited above, but makes further provision that Coast Guard personnel when acting as officers of the customs shall, insofar as enforcing customs laws are concerned, be subject to regulations governing regular officers of the customs. 81st Congress, House Report No. 557.

§ 144. Department of the Army and Department of the Air Force

(a) The Secretary of the Army or the Secretary of the Air Force at the request of the Secretary may, with or without reimbursement for the cost thereof, as agreed, receive officers and enlisted men of the Coast Guard for instruction in any school, including any aviation school, maintained by the Army or the Air Force, and such officers and enlisted men shall be subject to the regulations governing such schools.

(b) Officers and enlisted men of the Coast Guard shall be permitted to purchase quarter-

master supplies from the Army at the same price as is charged the officers and enlisted men of the Army.

(c) Articles of ordnance property may be sold by the Secretary of the Army to officers of the Coast Guard for their use in the public service in the same manner as these articles are sold to officers of the Army.

(Aug. 4, 1949, ch. 393, 63 Stat. 506; Oct. 18, 1976, Pub. L. 94-546, § 1(10), 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 28 (Aug. 29, 1916, ch. 417, 39 Stat. 601). Section has been enlarged to include the Air Force as well as the Army, and to include all schools maintained by the Army or Air Force, rather than aviation schools only. Reimbursement is made optional depending upon agreement of the Secretaries.

Subsection (b) is based on title 14, U.S.C., 1946 ed., § 31 (Mar. 6, 1920, ch. 94, § 1, 41 Stat. 506).

Subsection (c) is based on title 14, U.S.C., 1946 ed., § 31a (Mar. 3, 1909, ch. 252, 35 Stat. 751; Apr. 15, 1937, ch. 101, 50 Stat. 65).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-546, § 1(10)(a), substituted "at the request of the Secretary" for "at the request of the Secretary of the Treasury".

Subsec. (c). Pub. L. 94-546, § 1(10)(b), substituted "Secretary of the Army" for "Chief of Ordnance".

CROSS REFERENCES

Interchange of supplies between Army, Navy, and Coast Guard, see section 2571 of Title 10, Armed Forces.

§ 145. Navy Department

(a) The Secretary of the Navy, at the request of the Secretary may, with or without reimbursement for the cost thereof, as agreed:

(1) build any vessel for the Coast Guard at such Navy yards as the Secretary of the Navy may designate;

(2) receive officers and enlisted men of the Coast Guard for instruction in any school, including any aviation school maintained by the Navy, and such officers and enlisted men shall be subject to the regulations governing such schools; and

(3) permit personnel of the Coast Guard and their dependents to occupy any public quarters maintained by the Navy and available for the purpose.

(b) Officers and enlisted men of the Coast Guard shall be permitted to purchase quartermaster supplies from the Navy and the Marine Corps at the same price as is charged the officers and enlisted men of the Navy and Marine Corps.

(c) When the Coast Guard is operating in the Department of Transportation, the Secretary shall provide for such peacetime training and planning of reserve strength and facilities as is necessary to insure an organized, manned, and equipped Coast Guard when it is required for wartime operation in the Navy. To this end, the Secretary of the Navy for the Navy, and the Secretary of Transportation, for the Coast Guard, may from time to time exchange such information, make available to each other such personnel, vessels, facilities, and equipment, and agree to undertake such assignments and functions for each other as they may agree are necessary and advisable.

(Aug. 4, 1949, ch. 393, 63 Stat. 506; Aug. 3, 1950, ch. 536, § 3, 64 Stat. 406; Oct. 18, 1976, Pub. L. 94-546, § 1(11), 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., §§ 28, 42, 57 (Aug. 29, 1916, ch. 417, 39 Stat. 601; July 3, 1926, ch. 742, § 11, 44 Stat. 817.) Subsection is enlarged to make reimbursement for the building of ships or the training of personnel dependent on agreement of the Secretaries, and to include all schools operated by the Navy, rather than aviation schools only.

Subsection (b) is based on title 14, U.S.C., 1946 ed., § 31 (Mar. 6, 1920, ch. 94, § 1, 41 Stat. 506).

Subsection (c) is new. This subsection enacts what has been the practice of the Navy and Coast Guard in keeping the Coast Guard trained to "come on board with some muscle" in time of emergency.

Section 3 of this title deals with the relationship of the Coast Guard to the Navy Department. This section deals with cooperation with the Navy. Whereas the status of the Coast Guard in time of war was treated in chapter 1 of this title, this section has application in time of peace when the Coast Guard is not under the Navy Department.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-546, § 1(11)(a), substituted "at the request of the Secretary" for "at the request of the Secretary of the Treasury".

Subsec. (c). Pub. L. 94-546, § 1(11)(b), substituted in first sentence "Department of Transportation" for "Treasury Department" and in second sentence "Secretary of Transportation" for "Secretary of the Treasury".

1950—Subsec. (a). Act Aug. 3, 1950, struck out the word "and" following the semicolon in par. (1), changed the period to a semicolon and added the word "and" at end of par. (2), and added par. (3).

CROSS REFERENCES

Interchange of supplies between Army, Navy, and Coast Guard, see section 2571 of Title 10. Armed Forces.

§ 146. United States Postal Service

Coast Guard facilities and personnel may be utilized for the transportation and delivery of mail matter during emergency conditions or at isolated locations under such arrangements as may be satisfactory to the Secretary and the Postmaster General.

(Aug. 4, 1949, ch. 393, 63 Stat. 506; Oct. 18, 1976, Pub. L. 94-546, § 1(12), 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

This section provides generally for what has been the practice between the Coast Guard and the Post Office Department in Alaska for years. The authorization is limited to emergency conditions or isolated locations. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 substituted "United States Postal Service" for "Post Office Department" as section catchline.

§ 147. Department of Commerce

In order to promote the safety of life and property on and over the high seas and waters over which the United States has jurisdiction,

and to facilitate the preparation and dissemination by the National Oceanic and Atmospheric Admministration [1] of the weather reports, forecasts, and warnings essential to the safe and efficient conduct of domestic and international commerce on and over such seas and waters, the Commandant may cooperate with the Administrator, National Oceanic and Atmospheric Administration by procuring, maintaining, and making available, facilities and assistance for observing, investigating, and communicating weather phenomena and for disseminating weather data, forecasts and warnings, the mutually satisfactory terms of such cooperation in weather service to be agreed upon and arranged between the Commandant and the Administrator, National Oceanic and Atmospheric Administration.

(Aug. 4, 1949, ch. 393, 63 Stat. 507; Oct. 18, 1976, Pub. L. 94-546, § 1(13), 90 Stat. 2520.)

HISTORICAL AND REVISION NOTES

This section outlines the sphere of cooperation between the Weather Bureau and the Coast Guard. It would not permit any cooperation that has not been carried on in the past.

Although the Coast Guard has always cooperated closely with the Weather Bureau, positive recognition of this has never appeared in the statutes. In its patrol, its aiding navigation, and its life saving activities, the Coast Guard finds it important to make, receive and transmit weather observations and measurements. Furthermore, with the advent of war, weather reporting, particularly mid-Atlantic weather patrol work, assumed increasing importance, and this extensive weather station manning in cooperation with the Weather Bureau must be provided for in the postwar period. This section providing for such close cooperation with the Weather Bureau in weather reporting would crystallize the cooperative practices of the two agencies as they have operated for years. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 substituted references to the National Oceanic and Atmospheric Administration and to the Administrator, National Oceanic and Atmospheric Administration for references to the Weather Bureau and to the Chief of the Weather Bureau.

§ 148. Maritime instruction

The Coast Guard may, when so requested by proper authority, detail officers and enlisted men for duty in connection with maritime instruction and training by the several States, Territories, the District of Columbia, and Puerto Rico, and when requested by the United States Maritime Commission, detail persons in the Coast Guard for duty in connection with maritime instruction and training by the United States. The service rendered by any person so detailed shall be considered Coast Guard duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 507.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 49 (Aug. 4, 1939, ch. 416, 53 Stat. 1181).

Changes were made in phraseology. 81st Congress, House Report No. 557.

[1] So in original.

ABOLISHMENT OF COMMISSION AND TRANSFER OF FUNCTIONS

All executive and administrative functions of the Maritime Commission were transferred to the Chairman of the Maritime Commission by Reorg. Plan No. 6, of 1949, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1069, set out in the Appendix to Title 5, Government Organization and Employees.

The United States Maritime Commission was abolished by Reorg. Plan No. 21 of 1950, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix to Title 5, Government Organization and Employees. The Plan transferred part of the Commission's functions and part of the functions of its Chairman to the Federal Maritime Board and the Chairman, thereof, such Board having been created by that Plan as an agency within the Department of Commerce with an independent status in some respects, and transferred the remainder of such Commission's functions and the functions of its Chairman to the Secretary of Commerce, with power vested in the Secretary to authorize their performance by the Maritime Administrator, the head of the Maritime Administration, which likewise was established by the Plan in the Department of Commerce with the provision that the Chairman of said Federal Maritime Board should, ex officio, be such Administrator.

Section 304 of Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out in the Appendix to Title 5, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of Reorg. Plan No. 7 of 1961.

§ 149. Detail of officers and men to assist foreign governments

The President may upon application from the foreign governments concerned, and whenever in his discretion the public interests render such a course advisable, detail officers and enlisted men of the Coast Guard to assist foreign governments in matters concerning which the Coast Guard may be of assistance. Officers and enlisted men so detailed may accept, from the government to which detailed, offices and such compensation and emoluments thereunder appertaining as may be first approved by the Secretary. While so detailed such officers and enlisted men shall receive, in addition to the compensation and emoluments allowed them by such governments, the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for longevity, retirement, and for all other purposes that they would receive if they were serving with the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 507.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 441a (May 19, 1926, ch. 334, 44 Stat. 565; May 14, 1935, ch. 109, 49 Stat. 218; Oct. 1, 1942, ch. 571, 56 Stat. 763; 1946 Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352).

Experience has indicated that it will be advantageous for the Government to include the Coast Guard along with the other armed forces for the purpose of detailing personnel for service with foreign governments.

It seems probable that the increased collaboration with foreign governments after the war and the vital nature of the Coast Guard's activities in relation to such collaboration will result in requests from time to time by foreign governments for assistance which the Coast Guard is in the best position to render. This section, which confers broad authority in the President

to detail Coast Guard officers and enlisted men to assist foreign governments, is patterned after the act of October 1, 1942, 56 Stat. 763 (title 34, U.S.C., 1946 ed., § 441-a), which authorizes the President to detail Army, Navy, and Marine Corps officers and men to certain foreign governments and, in times of war or national emergency, to any foreign government in the interests of national defense. 81st Congress, House Report No. 557.

CROSS REFERENCES

State Department, exchange of information with, see section 142 of this title.

§ 150. Coast Guard officers as attachés to missions

Commissioned officers may, with the consent of the Secretary of State, be regularly and officially attached to the diplomatic missions of the United States in those nations with which the United States is extensively engaged in maritime commerce. Expenses for the maintenance of such Coast Guard attachés abroad, including office rental and pay of employees and allowances for living quarters, including heat, fuel, and light, may be defrayed by the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 507.)

HISTORICAL AND REVISION NOTES

Experience since the war has indicated the necessity for making provision for the assignment of Coast Guard officers to diplomatic missions in those foreign countries which are extensively engaged in maritime commerce with the United States. This is largely the result of duties in connection with inspection of merchant vessels.

This section authorizes the designation, with the consent of the State Department, of Coast Guard officers to be officially attached to diplomatic missions of the United States. Although Coast Guard advice on Coast Guard matters is always available to our diplomatic missions, in those locations where such advice and information are frequently sought, it is felt that the most effective utilization of Coast Guard services would be achieved by having Coast Guard officers attached to such missions. Provision for customs officers to be attached to diplomatic missions is contained in the act of March 4, 1923, as amended, 42 Stat. 1453 (title 19, U.S.C., 1946 ed., § 6). Before the transfer in 1939 of the Foreign Agriculture Service to the State Department, representatives of the Bureau of Agricultural Economics of the Department of Agriculture stationed abroad were agricultural attachés. Act of June 5, 1930, 46 Stat. 498 (title 7, U.S.C., 1946 ed., § 542(a)). 81st Congress, House Report No. 557.

CROSS REFERENCES

State Department, exchange of information with, see section 142 of this title.

§ 151. Contracts with Government-owned establishments for work and material

All orders or contracts for work or material, under authorization of law, placed with Government-owned establishments by the Coast Guard, shall be considered as obligations in the same manner as provided for similar orders or contracts placed with private contractors, and appropriations for such work or material shall remain available for payment therefor as in the case of orders or contracts placed with private contractors.

(Aug. 4, 1949, ch. 393, 63 Stat. 507.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 31c (June 6, 1942, ch. 384, 56 Stat. 328). 81st Congress, House Report No. 557.

CHAPTER 9—COAST GUARD ACADEMY

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182. Cadets; number, appointment, obligation to serve.
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184. Cadets; degree of bachelor of science.
185. Cadets; appointment as ensign.
186. Civilian instructors. [1]
187. Permanent commissioned teaching staff; composition.
188. Appointment of permanent commissioned teaching staff.
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191. Credit for service as member of civilian teaching staff.
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195. Admission of foreigners for instruction; restrictions; conditions.

AMENDMENTS

1970—Pub. L. 91-278, § 1(7), June 12, 1970, 84 Stat. 305, added item 195.

1960—Pub. L. 86-474, § 1(15), May 14, 1960, 74 Stat. 146, substituted "member of civilian teaching staff" for "civilian instructor" in item 191.

§ 181. Administration of Academy

The immediate government and military command of the Coast Guard Academy shall be in the Superintendent of the Academy, subject to the direction of the Commandant under the general supervision of the Secretary. The Commandant may select a superintendent from the active list of the Coast Guard who shall serve in the pleasure of the Commandant.

(Aug. 4, 1949, ch. 393, 63 Stat. 508.)

HISTORICAL AND REVISION NOTES

This section does not change the present method of administration of the Academy. It makes statutory what has been administrative regulation heretofore, and it is believed highly desirable to make the control of an institution of such national interest as the Academy the subject of a statute.

This section is new. There is no provision in existing law which establishes the Academy and sets it up as an operating unit. Nor is there any provision which creates the office of Superintendent of the Academy, or prescribes his duties and functions. Heretofore this has been accomplished by regulations, and the laws which deal with the Academy assume its existence as a going institution and assume the existence of the Superintendent with certain defined functions and duties. This section continues the Academy as previously established, provides for the appointment of the Superintendent by the Commandant, and defines in general terms his functions. The Academy would thus be placed on a definite statutory basis, and the office of Superintendent would be a statutory position, but the present administration of the Academy would in no way be interfered with. 81st Congress, House Report No. 557.

[1] Section catchline amended without amending analysis to reflect such change.

§ 182. Cadets; number, appointment, obligation to serve

(a) The number of cadets appointed annually to the Academy shall be as determined by the Secretary but the number appointed in any one year shall not exceed six hundred. Appointments to cadetships shall be made under regulations prescribed by the Secretary, who shall determine age limits, methods of selection of applicants, term of service as a cadet before graduation, and all other matters affecting such appointments. All such appointments shall be made without regard to the sex, race, color, or religious beliefs of an applicant. In the administration of this chapter, the Secretary shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals. The Secretary may summarily dismiss from the Coast Guard any cadet who, during his cadetship, is found unsatisfactory in either studies or conduct, or may be deemed not adapted for a career in the Coast Guard. Previous to his admission each cadet shall obligate himself, in such manner as the Secretary shall prescribe, to complete the course of instruction at the Coast Guard Academy and to serve at least five years as an officer in the Coast Guard after graduation, if his service be so long required. Cadets shall be subject to rules governing discipline prescribed by the Commandant.

(b) A cadet who does not fulfill his obligation to complete the course of instruction or refuses to accept an appointment as an officer in the Coast Guard may be transferred by the Secretary to the Coast Guard Reserve in an appropriate enlisted grade or rating, and, notwithstanding section 651 of title 10, United States Code, may be ordered to active duty to serve in that grade or rating for such period of time as the Secretary prescribes, but not for more than four years.

(Aug. 4, 1949, ch. 393, 63 Stat. 508; Mar. 3, 1964, Pub. L. 88-276, § 5(b), 78 Stat. 153; June 9, 1966, Pub. L. 89-444, § 1(8), 80 Stat. 195; June 12, 1970, Pub. L. 91-278, § 1(4), 84 Stat. 304; Oct. 21, 1976, Pub. L. 94-572, § 1, 90 Stat. 2708.)

HISTORICAL AND REVISION NOTES

Based on the proviso under the heading "Revenue Cutter Service" of act Feb. 25, 1903, ch. 755, 32 Stat. 869, and on title 14, U.S.C., 1946 ed., §§ 15, 15a-1, 25 (June 23, 1906, ch. 3520, § 2, 34 Stat. 452; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 3, 1926, ch. 742, § 6, 44 Stat. 816; July 30, 1937, ch. 545, § 5, 50 Stat. 549; May 25, 1943, ch. 99, 57 Stat. 84).

Section 15 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with clothing allowance for cadets is placed in section 183 of this title and the other parts are incorporated with the proviso of title 14, U.S.C., 1946 ed., § 15a-1 to form this section.

Section 15a-1 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with the appointment of cadets to the grade of ensign is placed in section 185 of this title, and the proviso is placed in this section.

The length of term of service as a cadet prior to graduation is added to the list of matters specifically determined by the Secretary.

The period of required service after graduation is increased from 3 to 4 years, to attain uniformity with the other service academies. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-572 inserted provisions for the nondiscriminatory appointment of cadets to the Coast Guard Academy.

1970—Subsec. (a). Pub. L. 91-278, § 1(4)(A) to (C), increased limitation on number of annual appointments to the Academy from four to six hundred, required each cadet to obligate himself to complete the course of instruction at the Academy, and designated existing provisions, as amended, as subsec. (a), respectively.

Subsec. (b). Pub. L. 91-278, § 1(4)(D), added subsec. (b).

1966—Pub. L. 89-444 raised from three hundred to four hundred the maximum number of cadets who may be appointed annually to the Academy.

1964—Pub. L. 88-276 increased the cadet's obligation to serve after graduation from four to five years.

EFFECTIVE DATE OF 1964 AMENDMENT; OBLIGATED PERIOD OF SERVICE

Amendment by Pub. L. 88-276 effective only with respect to cadets and midshipmen appointed to the service academies and the Coast Guard Academy after Mar. 3, 1964, see section 5(c) of Pub. L. 88-276, set out as a note under section 4348 of Title 10, Armed Forces.

CROSS REFERENCES

Conduct unbecoming an officer and gentleman as offense, see section 933 of Title 10, Armed Forces.

Dismissal by court-martial, review by board of review, see section 866 of Title 10.

Expenses when absent from vessel or assigned to shore patrol duty, see section 510 of this title.

Military Justice Code, cadets subject to, see section 802 of Title 10, Armed Forces.

Pay and allowances, see sections 201, 422 of Title 37, Pay and Allowances of the Uniformed Services.

Summary courts-martial, jurisdiction to try, see section 820 of Title 10, Armed Forces.

Travel and transportation allowances, see section 410 of Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 195 of this title.

§ 183. Cadets; initial clothing allowance

The Secretary may prescribe a sum which shall be credited to each new cadet upon first admission to the Academy, to cover the cost of his initial clothing and equipment issue, which sum shall be deducted subsequently from his pay. Each cadet discharged prior to graduation who is indebted to the United States on account of advances of pay to purchase required clothing and equipment shall be required to turn in to the Academy all clothing and equipment of a distinctively military nature to the extent required to discharge such indebtedness; and, if the value of such clothing and equipment so turned in does not cover the indebtedness incurred, then such indebtedness shall be canceled.

(Aug. 4, 1949, ch. 393, 63 Stat. 508; Aug. 22, 1951, ch. 340, § 3, 65 Stat. 196.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15 (June 23, 1906, ch. 3520, § 2, 34 Stat. 452; Jan. 28, 1915, ch. 20,

§ 1, 38 Stat. 800; July 3, 1926, ch. 742, § 6, 44 Stat. 816; July 30, 1937, ch. 545, § 5, 50 Stat. 549).

Said section has been divided. That part dealing with clothing allowance for cadets is placed in this section and the other parts are incorporated in section 182 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1951—Act Aug. 22, 1951, substituted provision that the Secretary may prescribe the sum to be credited for the former prescribed sum of $250, and added second sentence.

CROSS REFERENCES

Mileage allowance for Coast Guard Academy candidates, see section 410 of Title 37, Pay and Allowances of the Uniformed Services.

§ 184. Cadets; degree of bachelor of science

The Superintendent of the Academy may, under such rules and regulations as the Secretary shall prescribe, confer the degree of bachelor of science upon all graduates of the Academy and may, in addition, confer the degree of bachelor of science upon such other living graduates of the Academy as shall have met the requirements of the Academy for such degree.

(Aug. 4, 1949, ch. 393, 63 Stat. 508.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15a (May 25, 1933, ch. 37, 48 Stat. 73; July 8, 1937, ch. 447, 50 Stat. 477; Aug. 9, 1946, ch. 928, 60 Stat. 961).

Changes in phraseology were made inasmuch as the Academy is now accredited by the Association of American Universities. It was not so accredited when the section was enacted.

Inasmuch as the acts cited above apply equally to the Military Academy and the Naval Academy, as well as the Coast Guard Academy, they are not scheduled for repeal but are being amended by section 13 of this act to eliminate reference to the Coast Guard. 81st Congress, House Report No. 557.

§ 185. Cadets; appointment as ensign

The President may, by and with the advice and consent of the Senate, appoint as ensigns in the Coast Guard all cadets who shall graduate from the Academy. Ensigns so commissioned on the same date shall take rank according to their proficiency as shown by the order of their merit at date of graduation.

(Aug. 4, 1949, ch. 393, 63 Stat. 508.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15a-1 (May 25, 1943, ch. 99, 57 Stat. 84).

Said section has been divided. The proviso is incorporated in section 182 of this title. The other part is incorporated in this section.

The last sentence of this section is new as a statute; it makes statutory what has been the practice of years, and is similar to the third sentence of title 34, U.S.C., 1946 ed., § 1057, applicable to graduates of the Naval Academy. 81st Congress, House Report No. 557.

§ 186. Civilian teaching staff

(a) The Secretary may appoint in the Coast Guard such number of civilian faculty members at the Academy as the needs of the Service may require. They shall have such titles and perform duties as prescribed by the Secretary. Leaves of absence and hours of work for civilian faculty members shall be governed by regulations promulgated by the Secretary, without regard to the provisions of title 5.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; Sept. 3, 1954, ch. 1263, § 32, 68 Stat. 1238; May 14, 1960, Pub. L. 86-474, § 1(9), 74 Stat. 145; June 9, 1966, Pub. L. 89-444, § 1(9), 80 Stat. 195; Oct. 18, 1976, Pub. L. 94-546, § 1(14), 90 Stat. 2520.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15d (Apr. 16, 1937, ch. 107, § 3, 50 Stat. 67; May 2, 1942, ch. 273, 56 Stat. 265).

The last sentence is new and is inserted to permit adjustment of the work load and leave schedule of Academy faculty members due to the peculiarity of the academic schedule.

The last sentence of this section is new, being included in order to allow for adjusting the working time and leave of civilian instructors in conformity with the academic terms at the Academy. The work load of an instructor varies greatly, and flexibility in administration of a faculty is therefore essential. The leave provided for civil service employees does not fit the needs of an instruction staff, and this has been a source of difficulty in the past. This new provision would permit leave during the summer and between academic terms without deduction from pay, and, it is contemplated, at no other time.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-546 substituted "Leaves of absence and hours of work for civilian faculty members shall be governed by regulations promulgated by the Secretary, without regard to the provisions of title 5." for "Leaves of absence and hours of work for such personnel shall be governed by regulations issued by the Secretary of the Treasury, without regard to section 84, chapter 18, subchapter IV of chapter 21, sections 1112, 1113, and 1121-1125, and chapter 23, of title 5."

1966—Subsec. (a). Pub. L. 89-444, § 1(9)(A), (B), substituted "faculty members" for "members of the teaching staff" and struck out provision that the compensation of faculty members be fixed in accordance with the Classification Act of 1949, as amended, and denominated the existing provisions as so amended as subsec. (a).

Subsec. (b). Pub. L. 89-444, § 1(9)(C), added subsec. (b).

1960—Pub. L. 86-474 substituted "Coast Guard such number of civilian members of the teaching staff at the Academy as the needs of the Service may require" for "Coast Guard, subject to the competitive provisions of the civil-service laws and regulations, such number of civilian instructors as the needs of the Service require, not to exceed eight", and inserted provisions relating to titles and duties of the civilian members of the teaching staff.

1954—Act Sept. 3, 1954, substituted the "Classification Act of 1949" for the "Classification Act of 1923" and "section 84, chapter 18, subchapter IV of chapter 21, sections 1112, 1113, and 1121-1125, and chapter 23, of title 5" for "sections 29a, 30b-30m, 84, 663, 667, 672a-673, and chapter 18 of title 5".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5102.

§ 187. Permanent commissioned teaching staff; composition

The permanent commissioned teaching staff at the Academy shall consist of professors, as-

sociate professors, assistant professors and instructors, in such numbers as the needs of the Service require. They shall perform duties as prescribed by the Commandant, and exercise command only in the academic department of the Academy.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; May 14, 1960, Pub. L. 86-474, § 1(10), 74 Stat. 145.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 15b, 15c (Apr. 16, 1937, ch. 107, §§ 1, 2, 50 Stat. 66; May 2, 1942, ch. 273, 56 Stat. 265).

Section 15b of title 14, U.S.C., 1946 ed., has been divided. Part of the provisions of the first sentence is placed in this section, while other provisions are placed in section 188 of this title.

Section 15c of title 14, U.S.C., 1946 ed., has been divided. The last sentence is incorporated in this section, while the other provisions are placed in section 189 of this title.

The composition of the teaching staff at the Academy is changed materially on the recommendation of the Academic Board and the Advisory Committee. The scope of duty of members of the staff is enlarged to include whatever the Commandant prescribes.

Title 14, U.S.C., 1946 ed., § 15b provides for five professors as heads or assistant heads of departments at the Academy. The Academic Board of the Academy and the Advisory Committee, after extensive study have recommended the change, as provided in this section, to three professors and twelve others on the permanent teaching staff, with designations to conform generally with the designations and grades of faculty members at other universities. The librarian is given faculty status because of the role of the library as the center of the modern university; this is in conformity with the practice of other higher educational institutions. It is believed that the increased number of permanent commissioned instructors is justified and desirable in view of the expansion of the Cadet Corps as the full effect of the return to a four-year course is felt. It is probable that, in the next few years, the number of cadets will approximate 450. The average number in the past two years has been about 300. This new set-up for the permanent commissioned teaching staff will permit desirable exchanges of professors with leading universities, and occasional sabbatical leaves in order to better the faculty generally. It is pointed out that this increase in permanent instructors does not increase the authorized number of officers in the Coast Guard, as they are all included in the limitation provided in section 42 of this title. If a teaching position at the Academy is not provided for permanently it will require the assignment of an additional regular officer, so it is apparent that the changes proposed in this section do not increase the size of the Service, or the expense, but represent a long-range plan to better the Academy as a leading educational institution within the present, recognized, standards for a proper university faculty. The last sentence retains the command status of the professors as provided in existing law but enlarges the field in which they may perform duty, in order to make it possible to give them interim assignments other than at the Academy, thus broadening their knowledge of the Service while still advantageously utilizing their services. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86-474 substituted "shall consist of professors, associate professors, assistant professors and instructors, in such numbers as the needs of the Service require" for "shall consist of not more than three professors who may serve as heads of departments, and not more than twelve associate professors, assistant professors, and commissioned instructors, one of whom shall be the librarian"

§ 188. Appointment of permanent commissioned teaching staff

The President may appoint in the Coast Guard, by and with the advice and consent of the Senate, the professors, associate professors, assistant professors, and instructors who are to serve on the permanent commissioned teaching staff of the Academy. An original appointment to the permanent commissioned teaching staff, unless the appointee has served as a civilian member of the teaching staff, regular commissioned officer, temporary commissioned officer, or reserve commissioned officer in the Coast Guard, shall be a temporary appointment until the appointee has satisfactorily completed a probationary term of four years of service; thereafter he may be regularly appointed and his rank shall date from the date of his temporary appointment in the grade in which permanently appointed.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; May 14, 1960, Pub. L. 86-474, § 1(11), 74 Stat. 145; Oct. 18, 1976, Pub. L. 94-546, § 1(15), 90 Stat. 2520.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15b (Apr. 16, 1937, ch. 107, § 1, 50 Stat. 66; May 2, 1942, ch. 273, 56 Stat. 265).

Said section has been divided. That part of the first sentence which provides for the composition of the teaching staff is incorporated in section 187 of this title. The other provisions are incorporated in this section, except for the proviso which has been omitted as no longer needed.

This section incorporates the following changes because of the new plan for the permanent teaching staff: the President is authorized to appoint a candidate to any of the grades prescribed; and the probationary term, applicable unless the candidate has served in the Coast Guard as prescribed in this section, is increased from two to four years. Authorization for appointment in any grade is deemed desirable in order to permit the acquisition of outstanding instructors for the staff. It is believed that the former two-year period was too short to fully evaluate the capabilities of a temporary appointee. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 substituted "grade in which permanently appointed" for "rank in which permanently appointed".

1960—Pub. L. 86-474 substituted "and instructors who are to serve" for "and commissioned instructors who are to serve", and "civilian member of the teaching staff" for "civilian instructor"

§ 189. Grade of permanent commissioned teaching staff

Professors shall be commissioned officers with grade not above captain, associate and assistant professors with grade not above commander, and instructors with grade not above lieutenant commander. All officers of the permanent commissioned teaching staff shall receive the pay and allowances of other commissioned officers of the same grade and length of service. When any such professor, associate professor, assistant professor, or instructor is appointed or commissioned with grade less than the highest grade permitted, he shall be promoted under regulations prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; May 14, 1960, Pub. L. 86-474, § 1(12), 74 Stat. 145.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15c (Apr. 16, 1937, ch. 107, § 2, 50 Stat. 66).

Said section has been divided. The last sentence is incorporated in section 187 of this title. The other provisions are incorporated in this section.

The limitation on grade of professors is raised from Commander to Captain, and other limitations as to grades within the new permanent commissioned teaching staff are established.

This section prescribes the relative ranks for the various grades in the permanent commissioned teaching staff, establishes the pay as heretofore, and provides for promotion as the Secretary shall prescribe. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86-474 substituted "and instructors with grade not above" for "and commissioned instructors with grade not above", and "assistant professor, or instructor" for "or assistant professor"

§ 190. Retirement of permanent commissioned teaching staff

Professors, associate professors, assistant professors, and instructors in the Coast Guard shall be subject to retirement or discharge from active service for any cause on the same basis as other commissioned officers of the Coast Guard, except that they shall not be required to retire from active service under the provisions of section 288 of this title, nor shall they be subject to the provisions of section 289 of this title, nor shall they be required to retire at age sixty-two but may be permitted to serve until age sixty-four at which time unless earlier retired or separated they shall be retired. The Secretary may retire any member of the permanent commissioned teaching staff who has completed thirty years' active service. Service as a civilian member of the teaching staff at the Academy in addition to creditable service authorized by any other law in any of the military services rendered prior to an appointment as a professor, associate professor, assistant professor, or instructor shall be credited in computing length of service for retirement purposes. The provisions of law relating to retirement for disability in line of duty shall not apply in the case of a professor, associate professor, assistant professor, or instructor serving under a temporary appointment.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; May 14, 1960, Pub. L. 86-474, § 1(13), 74 Stat. 145; Sept. 24, 1963, Pub. L. 88-130, § 1(8), 77 Stat. 175; June 9, 1966, Pub. L. 89-444, § 1(10), 80 Stat. 196; June 12, 1970, Pub. L. 91-278, § 1(5), 84 Stat. 304.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15f (Apr. 16, 1937, ch. 107, § 5, 50 Stat. 67).

The provision prohibiting the retirement of a professor because of physical disability with less than 15 years' service is changed to have application only during the temporary appointment of a professor.

This section provides for the retirement of associate professors, assistant professors, and commissioned instructors in addition to professors. It is believed that the provision of existing law requiring 15 years' service before becoming eligible for retirment, discriminated against this group of officers as no other group was discriminated against, and should be eliminated. It was changed so that these officers would be ineligible for retirement during their probationary term only.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1970—Pub. L. 91-278 permitted permanent teachers to retire at sixty-four rather than at sixty-two unless earlier retired or separated.

1966—Pub. L. 89-444 authorized the Secretary to retire any member of the permanent commissioned teaching staff who has completed thirty years' active service.

1963—Pub. L. 88-130 inserted "or discharge", excepted staff members from retirement from active service under section 288 of this title, and from the provisions of section 289 of this title, and deleted "permanent" preceding "commissioned officers".

1960—Pub. L. 86-474 substituted "civilian member of the teaching staff" for "civilian instructor or civilian librarian", and eliminated the word "commissioned" in three instances preceding "instructors" and "instructor", respectively.

§ 191. Credit for service as member of civilian teaching staff

Service as a member of the civilian teaching staff at the Academy in addition to creditable services authorized by any other law in any of the military services rendered prior to an appointment as professor, associate professor, assistant professor, or instructor shall be credited in computing length of service as a professor, associate professor, assistant professor, or instructor for purposes of pay and allowances.

(Aug. 4, 1949, ch. 393, 63 Stat. 510; May 14, 1960, Pub. L. 86-474, § 1(14), 74 Stat. 146.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15e (Apr. 16, 1937, ch. 107, § 4, 50 Stat. 67).

Changes in phraseology were made in order to adapt the section to the new structure of the permanent commissioned teaching staff. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86-474 substituted "member of civilian teaching staff" for "civilian instructor" in the catchline, and "member of the civilian teaching staff" for "civilian instructor or civilian librarian" in the text, and eliminated the word "commissioned" preceding "instructor" in two instances.

§ 192. Assignment of personnel as instructors

The Commandant may assign any commissioned officer, warrant officer, or enlisted man to appropriate instruction duty at the Academy.

(Aug. 4, 1949, ch. 393, 63 Stat. 510.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15i (Apr. 16, 1937, ch. 107, § 8, 50 Stat. 67).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 193. Advisory Committee

The Secretary may appoint an Advisory Committee to the Academy, consisting of not more than seven persons of distinction in education and other fields relating to the purposes of the Academy, who shall serve without pay. Members of the Advisory Committee shall be ap-

pointed for terms of not to exceed three years and may be reappointed. The Secretary shall, in June of each year, appoint one of the members to serve as chairman. The members so appointed shall visit the Academy at least once during the academic year on the call of the chairman and may convene once each year at Headquarters, at the call of the Commandant, for the purpose of examining the course of instruction and advising the Commandant relative thereto. Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5.

(Aug. 4, 1949, ch. 393, 63 Stat. 510; Oct. 18, 1976, Pub. L. 94-546, § 1(16), 90 Stat. 2520.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15g (Apr. 16, 1937, ch. 107, § 6, 50 Stat. 67).

Said section dealing with the Advisory Committee is changed to increase the number of persons thereon to 7, the source from which appointments could be made is broadened to include other than educators, the term of appointment is fixed as 3 years, and provision is made for the appointment of the chairman by the Secretary.

This section changes existing law as follows: the field from which appointment may be made is broadened, the limit of membership is increased from five to seven, a provision for appointment of a chairman by the Secretary is added, and the term of service is established as three years. It is believed that the membership of not to exceed seven will provide greater flexibility in view of the new three year term of service, and will permit appointment of a committee with wider interests. The fact that no term of service has been provided for heretofore has been a source of confusion and difficulty and some term should be specified. The existing law provides for appointment from the field of education; this is enlarged to include other fields relating to purposes of the Academy, in order, primarily, to permit selection from shipping, business, and industry. No provision has been made for selection of a chairman heretofore, and this has caused some uncertainty in the functioning of the Committee; annual appointment seems desirable.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 substituted "chairman" for "Chairman" in fourth sentence and "Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5." for "Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with section 73b-1 of Title 5, or such actual expenses as permitted by section 73b-2 of Title 5 shall be defrayed by the Coast Guard".

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 194. Annual Board of Visitors

(a) In addition to the Advisory Committee, there shall be appointed in January of each year a Board of Visitors to the Academy, consisting of two Senators and three members of the House of Representatives, appointed by the chairmen of the committees of the Senate and House of Representatives, respectively, having cognizance of legislation pertaining to the Academy, the chairmen of said committees being ex officio members of the Board, and of one Senator and two members of the House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. Whenever a member or an ex officio member is unable to attend the annual meeting as provided in this section another member may be appointed in his stead in the manner as herein provided but without restriction as to month of appointment.

(b) Such Board shall visit the Academy annually on a date to be fixed by the Secretary. Each member of the Board shall be reimbursed from Coast Guard appropriations under Government travel regulations for the actual expense incurred by him while engaged in duties as a member of such Board, or such actual expenses as permitted under such regulations shall be defrayed by the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 510.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15h (Apr. 16, 1937, ch. 107, § 7, 50 Stat. 67; July 15, 1939, ch. 288, 53 Stat. 1044).

Changes were made in phraseology. 81st Congress House Report No. 557.

§ 195. Admission of foreign nationals for instruction; restrictions; conditions

(a) A foreign national may not receive instruction at the Academy except as authorized by this section.

(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as a cadet appointed pursuant to section 182 of this title. A person may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

(d) A person receiving instruction under this section is—

(1) not entitled to any appointment in the Coast Guard by reason of his graduation from the Academy; and

(2) subject to those regulations applicable to the Academy governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, except as may otherwise be prescribed by the Secretary.

(Added Pub. L. 91-278, § 1(6), June 12, 1970, 84 Stat. 304, and amended Pub. L. 94-468, Oct. 11, 1976, 90 Stat. 2002.)

AMENDMENTS

1976—Pub. L. 94-468 substituted "foreign nationals" for "foreigners" in the section catchline.

Subsec. (a). Pub. L. 94-468 substituted provision barring foreign nationals from receiving instruction at the Academy unless authorized by this section, for provision which authorized the Secretary to permit four persons at a time from the Republic of the Philippines, as designated by the President, to attend the Academy.

Subsec. (b). Pub. L. 94-468 substituted provision authorizing the President to designate not more than thirty-six foreign nationals whom the Secretary may permit to attend the Academy, for provision which authorized foreign nationals to receive the same pay and allowances as cadets at the Academy.

Subsec. (c). Pub. L. 94-468 substituted provision authorizing a foreign national to receive the same pay and allowances as a cadet providing his country agree in advance to reimburse the United States and directing the Secretary to credit any funds so received to the appropriations for pay and allowances, for provision which required that foreign nationals be subject to the same rules and regulations as cadets.

Subsec. (d). Pub. L. 94-468 added subsec. (d).

CHAPTER 11—PERSONNEL

OFFICERS

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357. Enlisted Personnel Board.
[358. Repealed.]
359. Recall to active duty during war or national emergency.
360. Recall to active duty with consent of man.
361. Relief of retired man promoted while on active duty.
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[439, 440. Repealed.]

HISTORICAL AND REVISION NOTES

This chapter, dealing with the appointment, enlistment, promotion, retirement and recall of all military personnel, covers subject matter which has been greatly affected by war-time legislation and, therefore, has required rather extensive rewriting of existing law in order to correlate all of the various provisions. An attempt has been made to provide for enlisted men and warrant officers in a manner similar to the way that commissioned officers are provided for; for example, the act of February 21, 1946, ch. 34, 60 Stat. 29 (title 14, U.S.C., 1946 ed., § 162a), made provision for the retirement of commissioned officers on half pay after twenty years naval service, and a prewar statute provided for twenty year retirement of enlisted men on half pay. This leaves warrant officers the only military group not eligible for retirement in twenty years, and a provision such as found in section 305 of this title, granting such retirment, seems clearly indicated in order to avoid unjust discrimination.

The subject matter seemed to break down into the sub-heads of "Commissioned Officers", "Warrant Officers", "Enlisted Men", and "General Provisions". Each of the first three sub-heads parallels the other two, insofar as the applicability of statutes of the three groups permits. The last sub-head includes the broad provisions which, in the same terms, can be made applicable to all military personnel. In accord with existing Navy and Coast Guard law, the term "commissioned officer" includes commissioned warrant officers unless specifically excepted, or manifestly inapplicable. Heretofore Coast Guard statutes have designated commissioned warrant officers as chief warrant officers; in line with Navy designation it is changed to commissioned warrant officers throughout this title. Terms such as "Coast Guard personnel" or "personnel of the Coast Guard", as used throughout this title, are intended to include all employees of the Service, civilian and military. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546, § 1(18), Oct. 18, 1976, 90 Stat. 2520, added item 256a.

1972—Pub. L. 92-451, § 1(9), Oct. 2, 1972, 86 Stat. 757, substituted "continuation on active duty" for "retention on the active list" in item 290.

1966—Pub. L. 89-444, § 1(25), June 9, 1966, 80 Stat. 197, substituted "Grade on retirement" for "Retirement in cases where higher grade has been held" in item 334, and inserted items 371, 372, and 373.

1965—Pub. L. 89-189, § 1(2), Sept. 17, 1965, 79 Stat. 820, added item 336.

1963—Pub. L. 88-130, §§ 1(9), (10)(B), 4(c), Sept. 24, 1963, 77 Stat. 175, 177, 193, added items 211 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 335, struck out items 221 to 248, 301 to 313a, 435 to 437, 439, and 440, and eliminated headings "Commissioned Officers" and "Warrant Officers" which preceded sections 221 and 301, respectively, of this title.

Pub. L. 88-114, § 1(3), Sept. 6, 1963, 77 Stat. 144, deleted item 358.

1959—Pub. L. 86-155, § 10(a)(2), Aug. 11, 1959, 73 Stat. 338, struck out items 239 and 309.

1958—Pub. L. 85-861, § 33(b)(2), Sept. 2, 1958, 72 Stat. 1567, added item 440.

1957—Pub. L. 85-144, §§ 2(b), 3, Aug. 14, 1957, 71 Stat. 367, added item 313a and deleted items 303, 304, 305, 307, 308, and 313.

1956—Act Aug. 10, 1956, ch. 1041, §§ 7(b), 8(b), 9(b), 70A Stat. 620, 622, inserted items 350 and 435 to 438, and substituted "Enlistments; term, grade" for "Enlistments" in item 351.

Act July 20, 1956, ch. 647, § 3(b), 70 Stat. 588, added item 439.

1955—Act Aug. 9, 1955, ch. 684, § 1(1), 69 Stat. 620, added items 245 to 248.

Act June 8, 1955, ch. 136, § 1, 69 Stat. 88, added item 370.

1950—Act Aug. 3, 1950, ch. 536, § 4, 64 Stat. 406, repealed items 233, 245, 246, 306, 314, 315, 356, 363, 364, and 425.

YEAR-END STRENGTH FOR ACTIVE DUTY PERSONNEL AND AVERAGE MILITARY TRAINING STUDENT LOADS FOR EACH FISCAL YEAR AFTER FISCAL YEAR 1977; AUTHORIZATION AND APPROPRIATIONS

Pub. L. 94-406, § 6, Sept. 10, 1976, 90 Stat. 1236, provided that:

"(a) For each fiscal year after fiscal year 1977, the Congress shall authorize the end strength as of the end of each fiscal year for active duty personnel of the Coast Guard, and no funds may be appropriated for any such fiscal year to or for the use of the active duty personnel of the Coast Guard unless the end strength for such active duty personnel for such fiscal year has been authorized by law.

"(b) For each fiscal year after fiscal year 1977, the Congress shall authorize the average military training student loads for the Coast Guard. Such authorization shall be required for student loads for the following individual training categories: recruit and specialized training; flight training; professional training in military and civilian institutions; and officer acquisition training. No funds may be appropriated for any fiscal year after fiscal year 1977 for the use of training any military personnel of the Coast Guard in the aforementioned categories unless the average student loads for the Coast Guard for such fiscal year have been authorized by law."

OFFICERS

A. APPOINTMENTS

§ 211. Original appointment of permanent commissioned officers

(a) The President may appoint, by and with the advice and consent of the Senate, permanent commissioned officers in the Regular Coast Guard in grades of ensign or above appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the following categories:

(1) graduates of the Coast Guard Academy;

(2) commissioned warrant officers, warrant officers, and enlisted men of the Regular Coast Guard;

(3) members of the Coast Guard Reserve who have served at least two years as such; and

(4) licensed officers of the United States merchant marine who has served two or more years aboard a vessel of the United States in the capacity of a licensed officer.

(b) No person shall be appointed a commissioned officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a commissioned officer has been established under such regulations as the Secretary shall prescribe.

(c) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 177, and amended Pub. L. 89-444, § 1(11), June 9, 1966, 80 Stat. 196.)

AMENDMENTS

1966—Subsec. (a)(4). Pub. L. 89-444 reduced from four to two the number of years of service aboard vessels of the United States in the capacity of licensed officers by licensed officers of the United States merchant marine required in order to qualify for appointment as permanent commissioned officers in the regular Coast Guard in grades of ensign or above.

SAVINGS PROVISIONS

Section 5 of Pub. L. 88-130, as amended by Pub. L. 89-444, § 3, June 9, 1966, 80 Stat. 198, provided that:

"(a) Officers in each grade who have been recommended as qualified for temporary promotion under laws and regulations in effect the day before the effective date of this Act [Sept. 24, 1963] but not promoted to the grade for which they were recommended shall be placed on a list of selectees in order of their precedence, and they shall be promoted as if they had been selected for promotion in the approved report of a selection board convened under this Act [enacting this section, and sections 41a, 212 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 335, of this title amending sections 42, 44, 46, 47, 190, 433, 759a, and 791 of this title, and enacting provisions set out as notes under sections 262, 285, and 289 of this title, and repealing sections 221 to 248, 301 to 313a, 435 to 437, 439, and 440 of this title, and act Sept. 21, 1961, 75 Stat. 538, set out as a note under section 435 of this title].

"(b) Officers who have been recommended for promotion to the grade of rear admiral under laws and regulations in effect the day before the effective date of this Act but have not been promoted to that grade shall be promoted as if they had been so recommended in the approved report of a selection board convened under this Act.

"(c) The enactment of this Act does not terminate the appointment of any officer.

"(d) An officer of the Regular Coast Guard who on the day before the effective date of this Act had been promoted to and was serving on active duty in a temporary grade higher than his permanent grade shall be considered to have been promoted to that grade under section 271 of title 14, United States Code.

"(e) An officer of the Regular Coast Guard who was appointed as a temporary commissioned officer under any provision of law in effect prior to the effective date of this Act and who is serving on active duty shall be considered to have been appointed under section 214 of title 14, United States Code, and subject to the provisions thereof. An officer of the Regular Coast Guard who was appointed as a permanent commissioned officer under any provision of law in effect prior to the effective date of this Act [Sept. 24, 1963], and who is serving on active duty shall be considered to have been appointed under section 211 of title 14, United States Code, and subject to the provisions thereof.

"(f) Each officer who would have been required to retire on June 30, 1962, under the provisions of section 288 of title 14, United States Code, had that section been in effect on that date, shall be retired on the last day of the sixth month following the month in which this Act becomes effective. If, under section 288 of title 14, United States Code, the retirement of any other officer would be required after June 30, 1962, but less than six months following the effective date of this Act, his retirement shall be deferred until the last day of the twelfth month following the month in which this Act becomes effective, or June 30, 1964, whichever is earlier.

"(g) The enactment of this Act does not increase or decrease the retired pay of any person retired on or prior to the effective date of this Act.

"(h) Notwithstanding section 1431 of title 10, United States Code, an original election, change, or revocation of an election, made under that section by an officer who is retired under the provisions of section 282, 283, 284, 285, or 288 of title 14, United States Code, is effective if made prior to the first day of the third month following the month in which this Act is enacted [Sept. 1963]."

SECTION REFERRED TO IN OTHER SECTIONS

The section is referred to in sections 282, 283 of this title.

§ 212. Original appointment of permanent commissioned warrant officers

(a) The President may appoint, by and with the advice and consent of the Senate, permanent commissioned warrant officers in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the following categories:

(1) warrant officers (W-1) of the Regular Coast Guard;

(2) enlisted men of the Regular Coast Guard;

(3) members of the Coast Guard Reserve; and

(4) licensed officers of the United States merchant marine.

(b) No person shall be appointed a commissioned warrant officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a commissioned warrant officer has been established under such regulations as the Secretary shall prescribe.

(c) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 177.)

§ 213. Original appointment of permanent warrant officers (W-1)

(a) The Secretary may appoint permanent warrant officers (W-1), in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the following categories:

(1) enlisted men of the Regular Coast Guard;

(2) members of the Coast Guard Reserve; and

(3) licensed officers of the United States merchant marine.

(b) No person shall be appointed a warrant officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a warrant officer has been established under such regulations as the Secretary shall prescribe.

(c) Appointees under this section shall take precedence with other warrant officers in ac-

cordance with the dates of their appointments. Appointees whose dates of appointment are the same shall take precedence with each other as the Secretary shall determine.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 37 section 415.

§ 214. Original appointment of temporary officers

(a) The President may appoint temporary commissioned officers in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted men of the Coast Guard, and from licensed officers of the United States merchant marine.

(b) The President may appoint temporary commissioned warrant officers in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the warrant officers and enlisted men of the Coast Guard, and from licensed officers of the United States merchant marine.

(c) The Secretary may appoint temporary warrant officers (W–1) in the Regular Coast Guard, as the needs of the Coast Guard require, from among the enlisted men of the Coast Guard, and from licensed officers of the United States merchant marine.

(d) Temporary appointments under this section do not change the permanent, probationary, or acting status of persons so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person who is appointed under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment under this section, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(e) An appointment under this section may be vacated by the appointing officer at any time. Each officer whose appointment is so vacated shall revert to his permanent status.

(f) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. Appointees whose dates of appointment are the same shall take precedence with each other as the Secretary shall determine.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178, and amended Pub. L. 89–444, § 1(12)–(14), June 9, 1966, 80 Stat. 196; Pub. L. 93–283, § 1(5), May 14, 1974, 88 Stat. 140.)

AMENDMENTS

1974—Subsec. (d). Pub. L. 93–283 prohibited any reduction in the pay and allowances to which a temporary officer was entitled under a prior temporary appointment in a lower grade.

1966—Subsec. (a). Pub. L. 89–444, § 1(12), added licensed officers of the United States merchant marine to the group from which the President may appoint temporary commissioned officers for the regular Coast Guard not above lieutenant.

Subsec. (b). Pub. L. 89–444, § 1(13), added licensed officers of the United States merchant marine to the group from which the President may appoint temporary commissioned warrant officers for the regular Coast Guard.

Subsec. (c). Pub. L. 89–444, § 1(14), added licensed officers of the United States merchant marine to the group from which the Secretary may appoint temporary warrant officers (W–1) in the Regular Coast Guard.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2 of Pub. L. 93–283 provided that: "Paragraphs (5) and (8) of section 1 of this Act [amending subsec. (d) of this section and section 288(a) of this title] are effective as of the original date of enactment [Sept. 24, 1963] of the sections thereby amended."

TEMPORARY APPOINTMENTS PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(e) of Pub. L. 88–130 considering officers appointed with temporary commissions prior to Sept. 24, 1963, as appointed under this section, are set out as a note under section 211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 284, 759a of this title; title 37 section 415.

[§§ 221 to 232. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 221, act Aug. 4, 1949, ch. 393, 63 Stat. 512, authorized the filling of vacancies in the active list of regular commissioned officers. See sections 251, 271(b) of this title.

Section 222, acts Aug. 4, 1949, ch. 393, 63 Stat. 512; May 14, 1960, Pub. L. 86–474, § 1(16), 74 Stat. 146, related to promotion to flag rank and is now covered by section 256 of this title.

Section 223, act Aug. 4, 1949, ch. 393, 63 Stat. 512, related to methods and criteria used in the filling of vacancies by promotion. See sections 271, 294, and 335, of this title.

Section 224, act Aug. 4, 1949, ch. 393, 63 Stat. 512, authorized the filling of vacancies by appointment. See section 211 et seq. of this title.

Section 225, act Aug. 4, 1949, ch. 393, 63 Stat. 513, authorized the President to make permanent appointments and is now covered by section 212 of this title.

Section 226, act Aug. 4, 1949, ch. 393, 63 Stat. 513, authorized the appointment of temporary commissioned officers and is now covered by section 214 of this title.

Section 227, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; May 5, 1950, ch. 169, § 15, 64 Stat. 148, related to the promotion and discharge of temporary commissioned officers. See sections 275, 284 of this title.

Section 228, act Aug. 4, 1949, ch. 393, 63 Stat. 514, authorized the appointment of commissioned warrant officers and is now covered by sections 213, 214 of this title.

Section 229, act Aug. 4, 1949, ch. 393, 63 Stat. 514, related to the revocation of commissions during the first three years of service. See section 281 et seq. of this title.

Section 230, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; May 29, 1954, ch. 249, § 19(h), 68 Stat. 167, related to compulsory retirement of commissioned officers, with the exception of commissioned warrant officers, at age 62, and is now covered by section 293 of this title.

Section 231, act Aug. 4, 1949, ch. 393, 63 Stat. 514, related to voluntary retirement after 30 years service and is now covered by section 292 of this title.

Section 232, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; Aug. 4, 1955, ch. 553, § 2, 69 Stat. 493, related to voluntary retirement after 20 years service and is now covered by section 291 of this title.

[§ 233. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 515, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 234 to 238. Repealed. Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 234, acts Aug. 4, 1949, ch. 393, 63 Stat. 515; Aug. 3, 1950, ch. 536, § 5, 64 Stat. 406, related to retirement for failure in physical examination for promotion and is now covered by section 294 of this title.

Section 235, act Aug. 4, 1949, ch. 393, 63 Stat. 515, related to the designation and assembly of a personnel board, its procedure and its recommendations. See sections 251 to 254 of this title.

Section 236, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to involuntary retirement after 30 years' service.

Section 237, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to involuntary retirement after 10 years' service.

Section 238, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to voluntary retirement when out of line of promotion.

[§ 239. Repealed. Pub. L. 86-155, § 10(a)(1), Aug. 11, 1959, 73 Stat. 338]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 516; Aug. 3, 1950, ch. 536, § 6, 64 Stat. 406, authorized advancement to a higher grade upon retirement in case of special commendation.

EFFECTIVE DATE OF REPEAL

Section 10(b) of Pub. L. 86-155 provided that the repeal of this section and section 309 of this title shall become effective on November 1, 1959.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 240 to 244. Repealed. Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 240, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 7, 64 Stat. 407, authorized the recall of retired officers in time of war or national emergency and is now covered by section 331 of this title.

Section 241, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 8, 64 Stat. 407, related to recall to active duty with the consent of the officer and is now covered by section 332 of this title.

Section 242, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 9, 64 Stat. 407, related to the relief of retired officers promoted while on active duty and is now covered by section 333 of this title.

Section 243, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 10, 64 Stat. 407; Aug. 14, 1957, Pub. L. 85-144, § 1, 71 Stat. 366, related to retirement in cases where a higher grade has been held and is now covered by section 334 of this title.

Section 244, act Aug. 4, 1949, ch. 393, 63 Stat. 517, related to resignation when out of line of promotion.

[§§ 245, 246. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 245, act Aug. 4, 1949, ch. 393, 63 Stat. 517, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 246, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10, Armed Forces.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 247, 248. Repealed. Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 247, acts Aug. 9, 1955, ch. 684, § 1(2), 69 Stat. 620; May 14, 1960, Pub. L. 86-474, § 1(17), 74 Stat. 146, related to the involuntary retirement of rear admirals and to their retention on the active list and is now covered by section 290 of this title.

Section 248, act Aug. 9, 1955, ch. 684, § 1(2), 69 Stat. 620, related to the involuntary retirement of captains, and to their retention on the active list and is now covered by section 289 of this title.

B. SELECTION FOR PROMOTION

§ 251. Selection boards; convening of boards

At least once a year and at such other times as the needs of the service require, the Secretary shall convene selection boards to recommend for promotion to the next higher grade officers on the active duty promotion list in each grade from lieutenant (junior grade) through captain, with separate boards for each grade. However, the Secretary is not required to convene a board to recommend officers for promotion to a grade when no vacancies exist in the grade concerned, and he estimates that none will occur in the next twelve months.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 252, 253, 255, 258, 259, 260, 261, 283 of this title.

§ 252. Selection boards; composition of boards

A board convened under section 251 of this title shall consist of five or more officers on the active duty promotion list who are serving in or above the grade to which the board may recommend officers for promotion. No officer may be a member of two successive boards convened to consider officers of the same grade for promotion.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

§ 253. Selection boards; notice of convening; communication with board

(a) Before a board is convened under section 251 of this title, notice of the convening date, the promotion zone to be considered, the officers eligible for consideration, and the number of officers the board may recommend for promotion shall be given to the service at large.

(b) Each officer eligible for consideration by a selection board convened under section 251 of this title may send a communication through official channels to the board, to arrive not later than the date the board convenes, inviting attention to any matter of record in the armed forces concerning himself. A communication sent under this section may not criticize any officer or reflect upon the character, conduct, or motive of any officer.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179, and amended Pub. L. 89-444, § 1(15), June 9, 1966, 80 Stat. 196.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-444 added the officers eligible for consideration to the list of items for which notice must be given to the service at large before a board is convened under section 251 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289, 290 of this title.

§ 254. Selection boards; oath of members

Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Coast Guard, perform the duties imposed upon him.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289, 290 of this title.

§ 255. Number of officers to be selected for promotion

Before convening a board under section 251 of this title to recommend officers for promotion to any grade, the Secretary shall determine the total number of officers to be selected for promotion to that grade. This number shall be equal to the number of vacancies existing in the grade, plus the number of additional vacancies estimated for the next twelve months, less the number of officers on the selection list for the grade.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

§ 256. Promotion zones

(a) Before convening a selection board to recommend officers for promotion to any grade above lieutenant (junior grade) and below rear admiral, the Secretary shall establish a promotion zone for the grade to be considered. The promotion zone for each grade shall consist of the most senior officers of that grade on the active duty promotion list who are eligible for consideration for promotion to the next higher grade and who have not previously been placed in a promotion zone for selection for promotion to the next higher grade. The number of officers in each zone shall be determined after considering—

(1) the needs of the service;

(2) the estimated numbers of vacancies available in future years to provide comparable opportunity for promotion of officers in successive year groups; and

(3) the extent to which current terms of service in that grade conform to a desirable career promotion pattern.

However, such number of officers shall not exceed the number to be selected for promotion divided by six-tenths.

(b) Promotion zones from which officers will be selected for promotion to the grade of rear admiral shall be established by the Secretary as the needs of the service require.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179, and amended Pub. L. 89-444, § 1(16), June 9, 1966, 80 Stat. 196.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-444 limited the promotion zone by requiring that the list of officers under consideration be officers eligible for consideration for promotion to the next higher grade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 262 of this title.

§ 256a. Promotion year; defined

For the purposes of this chapter, "promotion year" means the period which commences on July 1 of each year and ends on June 30 of the following year.

(Added Pub. L. 94-546, § 1(17), Oct. 18, 1976, 90 Stat. 2520.)

§ 257. Eligibility of officers for consideration for promotion

(a) An officer on the active duty promotion list becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he completes the following amount of service computed from his date of rank in the grade in which he is serving:

(1) two years in the grade of lieutenant (junior grade);

(2) three years in the grade of lieutenant;

(3) four years in the grade of lieutenant commander;

(4) four years in the grade of commander; and

(5) three years in the grade of captain.

(b) For the purpose of this section, service in a grade includes all qualifying service in that grade or a higher grade, under either a temporary or permanent appointment. However, service in a grade under a temporary service appointment under section 275 of this title is considered as service only in the grade that the officer concerned would have held had he not been so appointed.

(c) No officer may become eligible for consideration for promotion until all officers of his grade senior to him are so eligible.

(d) Except when his name is on a list of selectees, each officer who becomes eligible for consideration for promotion to the next higher grade remains eligible so long as he—

(1) continues on active duty; and

(2) is not promoted to that grade.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179, and amended Pub. L. 94-546, § 1(19), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-546, § 1(19)(a), substituted "promotion year" for "fiscal year".

Subsec. (d). Pub. L. 94-546, § 1(19)(b), struck out former cl. (3), which read: "(3) if serving in a grade below captain, has not twice failed of selection for promotion to the next higher grade.".

§ 258. Selection boards; information to be furnished boards

The Secretary shall furnish the appropriate selection board convened under section 251 of this title with:

(1) the number of officers that the board may recommend for promotion to the next higher grade; and

(2) the names and records of all officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion, with identification of those officers who are in the promotion zone.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180, and amended Pub. L. 89-444, § 1(17), June 9, 1966, 80 Stat. 196.)

AMENDMENTS

1966—Pub. L. 89-444 substituted "officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion" for "officers to be considered by the board" in clause 2.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289, 290 of this title.

§ 259. Officers to be recommended for promotion

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board considers best qualified of the officers under consideration for promotion. No officer may be recommended for promotion unless he receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(b) The number of officers that a board convened under section 251 of this title may recommend for promotion to a grade below rear admiral from among eligible officers junior in rank to the junior officer in the appropriate promotion zone may not exceed—

(1) 5 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of lieutenant or lieutenant commander;

(2) 7½ percent of the total number of officers that the board is authorized to recommend for promotion to the grade of commander; and

(3) 10 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of captain;

unless such percentage is a number less than one, in which case the board may recommend one such officer for promotion.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180.)

§ 260. Selection boards; reports

(a) Each board convened under section 251 of this title shall submit a report in writing, signed by all the members thereof, containing the names of the officers recommended for promotion.

(b) A board convened under section 251 of this title shall certify that, in the opinion of at least a majority of the members if the board has five members, or in the opinion of at least two-thirds of the members if the board has more than five members, the officers recommended for promotion are the best qualified for promotion of those officers whose names have been furnished to the board.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289, 290 of this title.

§ 261. Selection boards; submission of reports

(a) A board convened under section 251 of this title shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review, the Secretary shall submit the report of the board to the President for his approval, modification, or disapproval.

(b) If any officer recommended for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

(c) Upon approval by the President the names of officers selected for promotion by a board convened under section 251 of this title shall be promptly disseminated to the service at large.

(d) Except as required by this section, the proceedings of a selection board shall not be disclosed to any person not a member of the board.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181.)

§ 262. Failure of selection for promotion

(a) An officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade under section 256 of this title, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

(b) An officer shall not be considered to have failed of selection if he was not considered by a selection board because of administrative error. If he is selected by the next succeeding selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had he been recommended by the first selection board.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181.)

PLACEMENT OUT OF LINE OF PROMOTION PRIOR TO SEPTEMBER 24, 1963

Section 2(a), (b) of Pub. L. 88-130 provided that:

"(a) Officers who have been placed permanently out of line of promotion under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept. 24, 1963] shall be considered as having failed of selection for promotion to the next higher grade for the second time on the day before the effective date of this Act, and shall be subject to the provisions of sections 282 through 285 of title 14, United States Code, as appropriate. No officer shall be separated from the service under the above provisions prior to the last day of the sixth calendar month following the effective date of this Act.

"(b) Officers who have been placed temporarily out of line of promotion for appointment for temporary service under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept. 24, 1963] shall be considered as having once failed of selection for promotion to the next higher grade."

C. Promotions

§ 271. Promotions; appointments

(a) When the report of a board convened to recommend officers for promotion has been approved by the President, the Secretary shall place the names of all officers selected and approved on a list of selectees in the order of their seniority on the active duty promotion list.

(b) Officers on the list of selectees may be promoted by appointment in the next higher grade to fill vacancies in the authorized active duty strength of the grade as determined under section 42 of this title after officers on any previous list of selectees for that grade have been promoted. Officers shall be promoted in the order that their names appear on the list of selectees. The date of rank of an officer promoted under this subsection shall be the date of his appointment in that grade.

(c) An officer serving on active duty in the grade of ensign may, if found fully qualified for promotion in accordance with regulations prescribed by the Secretary, be promoted to the grade of lieutenant (junior grade) by appointment after he has completed twelve months' active service in grade. The date of rank of an officer promoted under this subsection shall be the date of his appointment in the grade of lieutenant (junior grade) as specified by the Secretary.

(d) Appointments of regular officers under this section shall be made by the President, by and with the advice and consent of the Senate. Appointments of Reserve officers shall be made as prescribed in section 593 of title 10.

(e) The promotion of an officer who is under investigation or against whom proceedings of a court-martial or a board of officers are pending may be delayed without prejudice by the Secretary until completion of the investigation or proceedings. However, unless the Secretary determines that a further delay is necessary in the public interest, a promotion may not be delayed under this subsection for more than one year after the date the officer would otherwise have been promoted. An officer whose promotion is delayed under this subsection and who is subsequently promoted shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had his promotion not been so delayed.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181, and amended Pub. L. 91–278, § 1(8), June 12, 1970, 84 Stat. 305.)

Amendments

1970—Subsec. (c). Pub. L. 91–278 decreased period of active service in grade from eighteen to twelve months completion of which is prerequisite to promotion from grade of ensign to grade of lieutenant (junior grade).

Temporary Grades and Recommendations for Promotions in Effect Prior to September 24, 1963

Savings provisions in section 5(a), (b), and (d) of Pub. L. 88–130, protecting officers recommended for promotion or serving in temporary grade higher than permanent grade, are set out as a note under section 211 of this title.

Section Referred to in Other Sections

This section is referred to in sections 272, 273, 274, 275 of this title.

§ 272. Removal of officer from list of selectees for promotion

(a) The President may remove the name of any officer from a list of selectees established under section 271 of this title.

(b) If the Senate does not consent to the appointment of an officer whose name is on a list of selectees established under section 271 of this title, that officer's name shall be removed from this list.

(c) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is selected for promotion by the next selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held if his name had not been removed. However, if the officer is not selected by the next selection board or if his name is again removed from the list of selectees, he shall be considered for all purposes as having twice failed of selection for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182.)

§ 273. Promotions; acceptance; oath of office

(a) An officer who receives an appointment under section 271 of this title is considered to have accepted his appointment on its effective date, unless he expressly declines the appointment.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon his appointment in a higher grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182, and amended Pub. L. 94–546, § 1(20), Oct. 18, 1976, 90 Stat. 2520.)

Amendments

1976—Subsec. (b). Pub. L. 94–546 substituted reference to section 3331 of title 5 for reference to section 16 of title 5.

§ 274. Promotions; pay and allowances

An officer who is promoted under section 271 of this title shall be entitled to the pay and allowances of the grade to which promoted from his date of rank in such grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182.)

§ 275. Wartime temporary service promotions

(a) In time of war, or of national emergency declared by the President or Congress, the President may suspend any section of this chapter relating to the selection, promotion, or

involuntary separation of officers. Such a suspension may not continue beyond six months after the termination of the war or national emergency.

(b) When the preceding sections of this chapter relating to selection and promotion of officers are suspended in accordance with subsection (a), and the needs of the service require, the President may, under regulations prescribed by him, promote to a higher grade any officer serving on active duty in the grade of ensign or above in the Coast Guard.

(c) In time of war, or of national emergency declared by the President or Congress, the President may, under regulations to be prescribed by him, promote to the next higher warrant officer grade any warrant officer serving on active duty in a grade below chief warrant officer, W-4.

(d) The grade of commodore in the Coast Guard is established for the purposes of this section.

(e) A promotion under this section to a grade above lieutenant may be made only upon the recommendation of a board of officers convened for that purpose.

(f) A promotion under this section shall be made by an appointment for temporary service. An appointment under this section to a grade above captain shall be made by the President by and with the advice and consent of the Senate. An appointment under this section to grade above lieutenant commander of an officer in the Coast Guard Reserve shall be made by the President, by and with the advice and consent of the Senate. Any other appointments under this section shall be made by the President alone.

(g) An appointment under this section, unless expressly declined, is regarded as accepted on the date specified by the Secretary as the date of the appointment, and the officer so promoted is entitled to pay and allowances of the grade to which appointed from that date.

(h) An appointment under this section does not terminate any appointments held by an officer concerned under any other provisions of this title. The President may terminate temporary appointments made under this section at any time. An appointment under this section is effective for such period as the President determines. However, an appointment may not be effective later than six months after the end of the war or national emergency. When his temporary appointment under this section is terminated or expires, the officer shall revert to his former grade.

(i) Not later than six months after the end of the war or national emergency the President shall, under such regulations as he may prescribe, reestablish the active duty promotion list with adjustments and additions appropriate to the conditions of original appointment and wartime service of all officers to be included thereon. The President may, by and with the advice and consent of the Senate, appoint officers on the reestablished active duty promotion list to fill vacancies in the authorized active duty strength of each grade. Such appointments shall be considered to have been made under section 271 of this title.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182, and amended Pub. L. 92-129, title VI, § 605, Sept. 28, 1971, 85 Stat. 362.)

AMENDMENTS

1971—Subsec. (f). Pub. L. 92-129 added provision covering appointments of officers in the Coast Guard Reserve to grades above lieutenant commander.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 257, 759a of this title.

§ 276. Promotion of officers not included on active duty promotion list

Officers who are not included on the active duty promotion list may be promoted under regulations to be prescribed by the Secretary. These regulations shall, as to officers serving in connection with organizing, administering, recruiting, instructing, or training the reserve components, provide as nearly as practicable, that such officers will be selected and promoted in the same manner and will be afforded equal opportunity for promotion as officers of the corresponding grade on the active duty promotion list.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 336 of this title.

§ 277. Temporary promotions of warrant officers

Warrant officers may be temporarily promoted to higher warrant officer grades under such regulations as the Secretary may prescribe.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183.)

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

§ 281. Revocation of commissions during first three years of commissioned service

The Secretary, under such regulations as he may prescribe, may revoke the commission of any regular officer on active duty who, at the date of such revocation, has had less than three years of continuous service as a commissioned officer in the Regular Coast Guard.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183.)

§ 282. Regular lieutenants (junior grade); separation for failure of selection for promotion

Each officer of the Regular Coast Guard appointed under section 211 of this title who is serving in the grade of lieutenant (junior grade) and who has failed of selection for promotion to the grade of lieutenant for the second time, shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he is eligible for retirement under any law, be retired on that date.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184, and amended Pub. L. 94-546, § 1(21), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Pub. L. 94-546 substituted in cl. (1) "promotion year" for "fiscal year".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(n) of Pub. L. 88-130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286, 287 of this title.

§ 283. Regular lieutenants; separation for failure of selection for promotion; continuation

(a) Each officer of the Regular Coast Guard appointed under section 211 of this title who is serving in the grade of lieutenant and who has failed of selection for promotion to the grade of lieutenant commander for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date; or

(4) if, on the date specified for his discharge in clause (1), he has completed at least eighteen years of active service, be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this chapter, to recommend for continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended. Upon the completion of such a term he shall, unless selected for further continuation, be honorably dischrged with severance pay computed under section 286 of this title, or, if eligible for retirement under any law, be retired.

(c) Each officer who has been continued on active duty under subsection (b) shall, unless earlier removed from active duty, be retired on the last day of the month in which he completes twenty years of active service.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184, and amended Pub. L. 93-283, § 1(6), May 14, 1974, 88 Stat. 140; Pub. L. 94-546, § 1(22), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-546 substituted "promotion year" for "fiscal year".

1974—Subsec. (a)(3). Pub. L. 93-283 substituted "he has completed at least 20 years of active service or is eligible" for "he is eligible".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88-130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286, 287 of this title.

§ 284. Regular Coast Guard; officers serving under temporary appointments

(a) Each officer of the Regular Coast Guard appointed under section 214 of this title who is serving in the grade of lieutenant (junior grade) or lieutenant and who has failed of selection for promotion to the grade of lieutenant or lieutenant commander, respectively, for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if on the date specified for his discharge in this section he is eligible for retirement under any law, be retired under that law on that date.

(b) Each officer subject to discharge or retirement under subsection (a) may elect to revert to his permanent grade.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184, and amended Pub. L. 94-546, § 1(23), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-546 substituted "promotion year" for "fiscal year".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88-130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286, 287 of this title.

§ 285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion

Each officer of the Regular Coast Guard serving in the grade of lieutenant commander or commander, who has failed of selection for promotion to the grade of commander or captain, respectively, for the second time shall:

(1) if he has completed at least 20 years of active service or is eligible for retirement under any law on June 30 of the promotion year in which his second failure of selection occurs, be retired on that date; or

(2) if ineligible for retirement on the date specified in clause (1) be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 185, and amended Pub. L. 93-283, § 1(7), May 14, 1974, 88 Stat. 140; Pub. L. 94-546, § 1(24), Oct. 18, 1976, 90 Stat. 2521.)

AMENDMENTS

1976—Pub. L. 94-546 substituted in cl. (1) "promotion year" for "fiscal year".

1974—Pub. L. 93-283 substituted in cl. (1), "if he has completed at least 20 years of active service or is eligible" for "if eligible".

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3 of Pub. L. 88-130 authorized the Secretary, until July 1, 1966, to convene boards to recommend for continuation on active duty officers of the Coast Guard on the active duty promotion list in specified categories.

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88-130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286, 287 of this title.

§ 286. Discharge in lieu of retirement; severance pay

(a) Each officer who is retained on active duty under section 283(a)(4), 283(b), or 285 of this title may, if he so requests, with the approval of the Secretary, be honorably discharged at any time prior to the date otherwise specified for his retirement or discharge.

(b) Each officer discharged under this section or under section 282, 283, or 284 of this title is entitled to a lump-sum payment computed by multiplying his years of active commissioned service, but not more than twelve, by two months' basic pay of the grade in which he is serving on the date of his discharge. In determining the total number of years of active service to be used as a multiplier in computing this payment, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this section until the total amount deducted equals the amount of the lump-sum payment.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 185.)

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3(p) of Pub. L. 88-130 authorized officers who failed of selection for continuation to request their discharge with severance pay computed in accordance with this section.

§ 287. Separation for failure of selection for promotion or continuation; time of

If, under section 282, 283, 284, 285, 289, or 290 of this title, the discharge or retirement of any officer would be required less than six months following approval of the report of the board which considered but did not select him for promotion or continuation, the discharge or retirement of such officer shall be deferred until the last day of the sixth calendar month after such approval.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 185, and amended Pub. L. 92-451, § 1(6), Oct. 2, 1972, 86 Stat. 755.)

AMENDMENTS

1972—Pub. L. 92-451 added reference to section 290.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

§ 288. Regular captains; retirement

(a) Each officer of the Regular Coast Guard serving in the grade of captain whose name is not carried on an approved list of officers selected for promotion to the grade of rear admiral shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he, or any captain junior to him on the active duty promotion list who has not lost numbers or precedence, completes thirty years of active commissioned service in the Coast Guard. An officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone is not subject to involuntary retirement under this section earlier than if he had not been selected from below the zone.

(b) Notwithstanding section 423 of this title, the retired pay of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 185, and amended Pub. L. 93–283, § 1(8), May 14, 1974, 88 Stat. 140; Pub. L. 94–546, § 1(25), Oct. 18, 1976, 90 Stat. 2521.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–546 substituted "promotion year" for "fiscal year".

1974—Subsec. (a). Pub. L. 93–283 prohibited an involuntary retirement under this section of an officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone earlier than if he had not been selected from below the zone.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–283 effective Sept. 24, 1963, see section 2 of Pub. L. 93–283, set out as a note under section 214 of this title.

RETIREMENT, RETIRED PAY, AND ELECTION OF ANNUITY AS AFFECTED BY PUB. L. 88–130

Savings provisions in section 5(f) to (h) of Pub. L. 88–130 relating to retirement, retirement pay, and election, change or revocation of election of an annuity, are set out as a note under section 211 of this title.

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3(a) of Pub. L. 88–130 excluded officers subject to retirement under this section during the fiscal year the selection board convened from being continued on active duty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 190, 289, 433 of this title.

§ 289. Captains; continuation on active duty; involuntary retirement

(a) The Secretary may, whenever the needs of the service require, but not more often than annually, convene a board consisting of not less than six officers of the grade of rear admiral to recommend for continuation on active duty officers on the active duty promotion list serving in the grade of captain, who during the promotion year in which the board meets will complete at least three years' service in that grade and who have not been selected for promotion to the grade of rear admiral. Officers who are subject to retirement under section 288 of this title during the promotion year in which the board meets shall not be considered by this board.

(b) Whenever he convenes a board under this section, the Secretary shall establish a continuation zone. The zone shall consist of the most senior captains eligible for consideration for continuation on active duty who have not previously been placed in a continuation zone under this section. The Secretary shall, based upon the needs of the service, prescribe the number of captains to be included in the zone.

(c) Based on the needs of the service the Secretary shall furnish the board with the number of officers that may be recommended for continuation on active duty. This number shall be no less than 75 percent of the number considered. The board shall select from the designated continuation zone, in the number directed by the Secretary, those officers who are, in the opinion of the board, best qualified for continuation on active duty.

(d) The provisions of sections 253, 254, 258, and 260 of this title relating to selection for promotion shall, to the extent that they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(e) The Secretary shall prescribe by regulation the detailed procedures whereby officers in a continuation zone will be selected for continuation on active duty.

(f) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval. Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large. Except as required by the procedures of this section, the proceedings of the board shall not be disclosed to any person not a member of the board.

(g) Each officer who is considered but not recommended for continuation on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which the report of the continuation board convened under this section is approved, or the last day of the month in which he completes twenty years of active service, whichever is later.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 186, and amended Pub. L. 94–546, § 1(26), Oct. 18, 1976, 90 Stat. 2521.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–546, § 1(26)(a), substituted "promotion year" for "fiscal year" wherever it appeared.

Subsec. (g). Pub. L. 94–546, § 1(26)(b), substituted "promotion year" for "fiscal year".

EFFECTIVE DATE

Section 6 of Pub. L. 88–130 provided that: "Section 289 of title 14, United States Code [this section], as enacted by section 1(10)(C) of this Act [see sections 5(a)

of Pub. L. 88-130 set out as a note under section 211 of this title], becomes effective three years after the effective date of this Act [Sept. 24, 1963], or on July 1, 1966, whichever is later."

CONSIDERATION FOR RETENTION ON ACTIVE DUTY UNDER FORMER SECTION 248 OF THIS TITLE

Section 2(c) of Pub. L. 88-130 provided that: "Officers who, prior to the effective date of this Act [Sept. 24, 1963], were considered but not selected for retention on active duty under the provisions of section 248, title 14, United States Code, shall remain subject to the provisions of subsections (b) and (c) of that section."

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 190, 287, 433, 782 of this title.

§ 290. Rear admirals; continuation on active duty; involuntary retirement

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral who have not previously been considered for continuation in that grade. Officers serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral. A board shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral is subject to consideration for continuation during a promotion year in which he completes not less than four or more than five years service in that grade.

(b) The Secretary shall, based upon the needs of the service, furnish each board convened under this section with the number of officers to be considered for continuation on active duty. The number that may be recommended for continuation shall be not less than 50 per centum or more than 75 per centum of the number of officers being considered for continuation.

(c) The provisions of sections 253, 254, 258, and 260 of this title relating to selection and continuation boards shall to the extent they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(d) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval.

(e) Each officer who is considered but not continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which the report of the continuation board convened under this section is approved.

(f) Each officer who is continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he completes a total of thirty-six years of active commissioned service, including service creditable for retirement purposes under sections 432, 433, 434 of this title.

(g) Notwithstanding subsection (f) of this section, the Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (f). An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain him under this subsection.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187, and amended Pub. L. 92-451, § 1(7), Oct. 2, 1972, 86 Stat. 756; Pub. L. 94-546, § 1(27), Oct. 18, 1976, 90 Stat. 2521.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-546, § 1(27)(a), substituted in last sentence "promotion year" for "fiscal year".

Subsec. (e). Pub. L. 94-546, § 1(27)(b), substituted "promotion year" for "fiscal year".

Subsec. (f). Pub. L. 94-546, § 1(27)(c), substituted "promotion year" for "fiscal year".

Subsec. (g). Pub. L. 94-546, § 1(27)(d), substituted "promotion year" for "fiscal year" wherever it appeared.

1972—Pub. L. 92-451 substituted "continuation on active duty" for "retention on the active list" in the section catchline.

Subsec. (a). Pub. L. 92-451 added subsec. (a). Former subsec. (a) redesignated (f).

Subsec. (b). Pub. L. 92-451 added subsec. (b). Former subsec. (b) redesignated (g).

Subsec. (c). Pub. L. 92-451 added subsec. (c). Former subsec. (c) provided that provisions of former subsecs. (a) and (b) were inapplicable to officers serving as Commandants.

Subsec. (d). Pub. L. 92-451 added subsec. (d).

Subsec. (e). Pub. L. 92-451 added subsec. (e).

Subsec. (f). Pub. L. 92-451 incorporated provisions of former subsec. (a) in provisions designated as subsec. (f), and among other changes extended the minimum service for retirement from 35 years to 36 years of active commissioned service and deleted the alternative seven year permanent grade service.

Subsec. (g). Pub. L. 92-451 incorporated provisions of former subsec. (b) in provisions designated as subsec. (g), and among other changes, substituted officer for rear admiral.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 3 of Pub. L. 92-451 provided that: "This Act [enacting sections 50 and 51 of this title, and amending this section and sections 41, 42, 44, 47 and 287 of this title and section 202 of title 37] is effective upon enactment [Oct. 2, 1972] except that continuation boards, pursuant to subsection (a) of section 290 of title 14, United States Code, as amended by this Act [subsec. (a) of this section], may not be held until one year following enactment hereof [Oct. 2, 1972]. During the period of one year following enactment hereof the Secretary of the Department in which the Coast Guard is operating shall convene a board consisting of not less than three Coast Guard officers serving in the

grade of vice admiral to recommend for continuation on active duty Coast Guard officers on the active duty promotion list serving in the grade of rear admiral, who during the fiscal year in which the board meets will complete not less than five years' service in that grade. Subsections (b) through (g) of section 290 and other sections of title 14, United States Code, as amended by this Act [subsecs. (b) through (g) of this section and sections 41, 42, 44, 47, 50, 51 and 287 of this title], apply to continuation board action taken pursuant to this section. No officer who is entitled to the basic pay of a rear admiral of the upper half may have his basic pay reduced because of the reduction which results from this Act in the number of officers entitled to the basic pay of a rear admiral of the upper half."

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287 of this title.

§ 291. Voluntary retirement after twenty years' service

Any regular commissioned officer who has completed twenty years' active service in the Coast Guard, Navy, Army, Air Force, or Marine Corps, or the Reserve components thereof, including active duty for training, at least ten years of which shall have been active commissioned service, may, upon his own application, in the discretion of the President, be retired from active service, with retired pay of the grade with which retired.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 292. Voluntary retirement after thirty years' service

Any regular commissioned officer who has completed thirty years' service may, upon his own application, in the discretion of the Secretary, be retired from active service with retired pay of the grade with which retired.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130, providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 293. Compulsory retirement at age of sixty-two

Any regular commissioned officer, except a commissioned warrant officer, who has reached the age of sixty-two shall be retired from active service, with retired pay of the grade with which retired.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 294. Retirement for physical disability after selection for promotion; grade in which retired

An officer whose name appears on an approved list of officers selected for promotion to the next higher grade and who is retired for physical disability under the provisions of chapter 61 of title 10 prior to being promoted shall be retired in the grade to which he was selected for promotion.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

[§§ 301, 302. Repealed. Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 301, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to the permanent appointment of warrant officers and is now covered by section 213 of this title.

Section 302, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to temporary appointments of warrant officers and is now covered by section 214 of this title.

[§§ 303 to 305. Repealed. May 29, 1954, ch. 249, § 20(o), 68 Stat. 167]

Section 303, act Aug. 4, 1949, ch. 393, 63 Stat. 518, required compulsory retirement of warrant officers reaching the age of sixty-two years, with retired pay of the grade with which retired.

Section 304, act Aug. 4, 1949, ch. 393, 63 Stat. 518, provided for voluntary retirement of warrant officers after thirty years' service, with retired pay of the grade with which retired.

Section 305, act Aug. 4, 1949, ch. 393, 63 Stat. 518, provided for voluntary retirement after twenty years' service, with retired pay of the grade with which retired.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§ 306. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 519, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 307, 308. Repealed. May 29, 1954, ch. 249, § 20(o), 68 Stat. 167]

Section 307, act Aug. 4, 1949, ch. 393, 63 Stat. 519, provided for compulsory retirement of warrant officers after thirty years' service, upon recommendation of a personnel board.

Section 308, act Aug. 4, 1949, ch. 393, 63 Stat. 519, provided for retired pay of warrant officers involuntarily retired under section 307.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§ 309. Repealed. Pub. L. 86-155, § 10(a)(1), Aug. 11, 1959, 73 Stat. 338]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 11, 64 Stat. 407, authorized retirement of warrant officers with the grade of commissioned warrant officer in case of special commendation.

EFFECTIVE DATE OF REPEAL

Repeal of section effective on November 1, 1959, see section 10(b) of Pub. L. 86-155, set out as a note under section 239 of this title.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 310 to 312. Repealed. Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 310, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 12, 64 Stat. 407, related to the recall to active duty during war or national emergency of warrant officers and is now covered by section 331 of this title.

Section 311, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 13, 64 Stat. 407, related to recall of warrant officers to active duty with consent of the officer and is now covered by section 332 of this title.

Section 312, acts Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, § 14, 64 Stat. 407, related to relief of retired warrant officer promoted while on active duty and is now covered by section 333 of this title.

[§ 313. Repealed. May 29, 1954, ch. 249, § 20(o), 68 Stat. 167]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, § 15, 64 Stat. 407, provided that any warrant officer who was retired under sections 303 to 305 or 307 of this title should be retired from active service with the highest grade held by him in which his performance of duty was satisfactory, but not lower than his permanent grade, with retired pay of the grade with which retired. It implemented such sections 303 to 305 and 307 which were also repealed by act May 29, 1954. See notes under those former sections.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§ 313a. Repealed. Pub. L. 88-130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section, Pub. L. 85-144, § 2(a), Aug. 14, 1957, 71 Stat. 367, related to retirement of warrant officers in cases where higher grade has been held and is now covered by section 334 of this title.

[§§ 314, 315. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 314, act Aug. 4, 1949, ch. 393, 63 Stat. 520, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 315, act Aug. 4, 1949, ch. 393, 63 Stat. 520, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10, Armed Forces.

E. SEPARATION FOR CAUSE

§ 321. Review of records of officers

The Secretary may at any time convene a board of officers to review the record of any officer of the Regular Coast Guard to determine whether he shall be required to show cause for his retention on active duty—

(1) because his performance of duty has fallen below the standards prescribed by the Secretary, or

(2) because of moral dereliction, professional dereliction, or because his retention is not clearly consistent with the interests of national security.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 322, 323, 324, 327 of this title.

§ 322. Boards of inquiry

(a) Boards of inquiry shall be convened at such places as the Secretary may prescribe to receive evidence and make findings and recommendations whether an officer who is required to show cause for retention under section 321 of this title should be retained on active duty.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer so required to show cause for retention.

(c) If a board of inquiry determines that the officer has failed to establish that he should be retained, it shall send the record of its proceedings to a board of review.

(d) If a board of inquiry determines that the officer has established that he should be retained, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 321, and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 324, 325, 327 of this title.

§ 323. Boards of review

(a) Boards of review shall be convened at such times as the Secretary may prescribe, to review the records of cases of officers recommended by boards of inquiry for removal.

(b) If, after reviewing the record of the case, a board of review determines that the officer has failed to establish that he should be retained, it shall send its recommendation to the Secretary for his action.

(c) If, after reviewing the record of the case, a board of review determines that the officer has established that he should be retained on active duty, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 321 and at any time after the date of the determination in a case arising under clause (2) of

that section, an officer may again be required to show cause for retention.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 324, 326, 327 of this title.

§ 324. Composition of boards

(a) A board convened under section 321, 322, or 323 of this title shall consist of at least three officers of the grade of commander or above, all of whom are serving in a grade senior to the grade of any officer considered by the board.

(b) No person may be a member of more than one board convened under section 321, 322, or 323 of this title to consider the same officer.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

§ 325. Rights and procedures

Each officer under consideration for removal under section 322 of this title shall be—

(1) notified in writing at least thirty days before the hearing of the case by a board of inquiry of the reasons for which the officer is being required to show cause for retention;

(2) allowed reasonable time, as determined by the board of inquiry under regulations of the Secretary, to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry; and

(4) allowed full access to, and furnished copies of, records relevant to the case at all stages of the proceeding, except that a board shall withhold any records that the Secretary determines should be withheld in the interests of national security. In any case where any records are withheld under this clause, the officer whose case is under consideration shall, to the extent that the national security permits, be furnished a summary of the records so withheld.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

§ 326. Removal of officer from active duty; action by Secretary

The Secretary may remove an officer from active duty if his removal is recommended by a board of review under section 323 of this title. The Secretary's action in such as case is final and conclusive.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 327 of this title.

§ 327. Officers considered for removal; retirement or discharge; severance benefits

(a) At any time during proceedings under section 322 or 323, and before the removal of an officer, the Secretary may grant a request—

(1) for voluntary retirement, if the officer is otherwise qualified therefor; or

(2) for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321; or

(3) for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321.

(b) Each officer removed from active duty under section 326 of this title shall—

(1) if on the date of removal the officer is eligible for voluntary retirement under any law, be retired in the grade, and with the pay for which he would be eligible if retired at his request; or

(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (1) of section 321; or

(3) if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (2) of section 321.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

F. MISCELLANEOUS PROVISIONS

§ 331. Recall to active duty during war or national emergency

In time of war or national emergency, the Secretary may order any regular officer on the retired list to active duty.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

§ 332. Recall to active duty with consent of officer

(a) Any regular officer on the retired list may, with his consent, be assigned to such duties as he may be able to perform.

(b) The number of retired officers on active duty in the grade of lieutenant commander, commander, or captain shall not exceed 1 percent of the authorized number of officers on active duty in each such grade. However, this limitation does not apply to retired officers of these grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189, and amended Pub. L. 89-444, § 1(18), June 9, 1966, 80 Stat. 196; Pub. L. 91-278, § 1(9), June 12, 1970, 84 Stat. 305.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-278 deleted prohibition against recall to duty in time of peace of any officer on retired list who reached age of sixty-two years.

1966—Subsec. (b). Pub. L. 89-444 provided that the percentage limitation on the number of retired officers on active duty in the grade of lieutenant commander, commander, or captain should not apply to retired officers of those grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

§ 333. Relief of retired officer promoted while on active duty

Any regular officer on the retired list recalled to active duty who during such active duty is advanced to a higher grade under an appointment shall, upon relief from active duty, if his performance of duty under such appointment has been satisfactory, be advanced on the retired list to the highest grade held while on such active duty.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

§ 334. Grade on retirement

(a) Any commissioned officer, other than a commissioned warrant officer, who is retired under any provision of this title, shall be retired from active service with the highest grade held by him for not less than six months while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory, with retired pay of the grade with which retired.

(b) Any warrant officer who is retired under any provision of section 564, 1263, 1293, or 1305 of title 10, shall be retired from active service with the highest commissioned grade above chief warrant officer, W–4, held by him for not less than six months on active duty in which, as determined by the Secretary, his performance of duty was satisfactory, with retired pay of the grade with which retired. However, when the rate of pay of such highest grade is less than the pay of the warrant grade with which the officer would otherwise be retired under section 1371 of title 10, the retired pay shall be based on the higher rate of pay.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 190, and amended Pub. L. 89–444, § 1(19), June 9, 1966, 80 Stat. 196.)

AMENDMENTS

1966—Pub. L. 89-444 substituted "Grade on retirement" for "Retirement in cases where higher grade has been held" as the section catchline.

§ 335. Physical fitness of officers

The Secretary shall prescribe regulations under which the physical fitness of officers to perform their duties shall be periodically determined.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 190.)

§ 336. United States Coast Guard Band; composition; director

(a) The United States Coast Guard Band shall be composed of a director and other personnel in such numbers and grades as the Secretary determines to be necessary.

(b) The Secretary shall designate the director from among qualified members of the Coast Guard. Upon the recommendation of the Secretary, a member so designated may be appointed by the President, by and with the advice and consent of the Senate, to a commissioned grade in the Regular Coast Guard.

(c) The initial appointment to a commissioned grade of a member designated as director of the Coast Guard Band shall be in the grade of lieutenant (junior grade) or lieutenant.

(d) A member who is designated and commissioned under this section shall not be included on the active duty promotion list. He shall be promoted under section 276 of this title. However, the grade of the director may not be higher than lieutenant commander.

(e) The Secretary may revoke any designation as director of the Coast Guard Band. When a member's designation is revoked, his appointment to commissioned grade under this section terminates and he is entitled, at his option:

(1) to be discharged from the Coast Guard; or

(2) To revert to the grade and status he held at the time of his designation as director.

(Added Pub. L. 89–189, § 1(1), Sept. 17, 1965, 79 Stat. 820.)

ENLISTED MEN

§ 350. Recruiting campaigns

The Secretary shall initiate and carry forward an intensified voluntary enlistment campaign to obtain the required personnel strengths.

(Added Aug. 10, 1956, ch. 1041, § 7(a), 70A Stat. 620.)

§ 351. Enlistments; term, grade

(a) Under regulations prescribed by the Secretary, the Commandant may enlist men for minority or terms of full years not exceeding six years.

(b) The Secretary shall prescribe the grades or ratings for persons enlisting in the Regular Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, § 16, 64 Stat. 407; Aug. 10, 1956, ch. 1041, § 8(a), 70A Stat. 620.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 35, 35a, 206 (May 26, 1906, ch. 2556, § 1, 34 Stat. 200; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Apr. 21, 1924, ch. 130, § 6, 43 Stat. 106; July 30, 1937, ch. 545, § 1, 50 Stat. 547; July 11, 1941, ch. 290, § 8, 55 Stat. 586; Aug. 18, 1941, ch. 364, § 3, 55 Stat. 629).

Section 35 of title 14, U.S.C., 1946 ed., has been divided. The provisions of the first sentence of subsection (a) are placed in this section. The proviso of subsection (a) is covered in section 367(b) of this title. Subsection (b) is placed in section 365 of this title. Subsections (c) and (d) are placed in section 367(a) of this title, except that part (3) of subsection (c) is covered by section 366 of this title.

Section 206 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with special temporary enlistments is incorporated in this section. That part dealing with temporary appointments of warrant officers is placed in section 302 of this title.

Certain additional details concerning the two types of enlistments are added; these details were previously covered in Coast Guard Regulations.

This section makes provision for the enlistment of personnel in the Coast Guard. The first sentence grants the necessary authority to the Secretary, changes existing law in regard to the term of enlistment from "not to exceed four years" to "not to exceed six years", and adds a provision for the enlistment of minors for their minority only, such provision being in accordance with existing law applicable to the

Navy. The next three sentences establish and define the two types of enlistments that are now in effect in the Coast Guard, setting forth the basic difference in the two types. The last sentence continues a provision to the effect that original enlistments in the Coast Guard shall be temporary. This section is a combination of existing law and regulations in regard to enlistments, with changes as noted above. See title 14, U.S.C., 1946 ed., § 35, and Coast Guard Regulations, sections 531 and 532. 81st Congress, House Report No. 557.

AMENDMENTS

1956—Act Aug. 10, 1956, substituted "Enlistments; term, grade" for "Enlistments" in the catchline.

Subsec. (a). Act Aug. 10, 1956, designated existing provisions as subsec. (a).

Subsec. (b). Act Aug. 10, 1956, added subsec. (b).

1950—Act Aug. 3, 1950, eliminated references to two types of enlistments that were deemed necessary prior to the enactment of the Career Compensation Act.

REPEALS

Section 53 of act Aug. 10, 1956, purportedly repealed section 1(351) of act Aug. 4, 1949, however, section 8 of such act Aug. 10, 1956, amended section 351 of this title to read as above set forth.

CROSS REFERENCES

Deserter, subsequent enlistment, see section 508 of this title.

Detention beyond term of enlistment, see section 367 of this title.

Extension of enlistment, see section 365 of this title.

Fraudulent enlistment as offense, see section 883 of Title 10, Armed Forces.

Inclusion of certain conditions in enlistment contract, see section 369 of this title.

Oath of enlistment, see section 502 of Title 10, Armed Forces.

Person transferred to reserve, see sections 512, 595 of Title 10.

Retention beyond term of enlistment in case of disability, see section 366 of this title.

Uniform Code of Military Justice, provisions explained to enlisted personnel, see section 937 of Title 10, Armed Forces.

§ 352. Promotion

Enlisted men shall be advanced in rating by the Commandant under regulations prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 520.)

HISTORICAL AND REVISION NOTES

Derived from title 14, U.S.C., 1946 ed., § 23 (Apr. 16, 1908, ch. 145, § 8, 35 Stat. 62).

Inasmuch as all phases of promotion of enlisted men, except the points covered by title 14, U.S.C., 1946 ed., § 23, have been left to administrative control heretofore, and this has proved most satisfactory, the entire promotion of enlisted men is delegated to administrative control by this section. 81st Congress, House Report No. 557.

§ 353. Compulsory retirement at age of sixty-two

Any enlisted man who has reached the age of sixty-two shall be retired from active service, with retired pay of the grade or rating with which retired.

(Aug. 4, 1949, ch. 393, 63 Stat. 520.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 173 (Apr. 12, 1902, ch. 501, § 4, 32 Stat. 100).

Section 173 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with enlisted men is placed in this section. That part dealing with commissioned officers is placed in section 230 of this title. That part dealing with warrant officers is placed in section 303 of this title.

The compulsory retirement age is changed from 64 to 62 in order to make it the same for enlisted men as for officers. 81st Congress, House Report No. 557.

CROSS REFERENCES

Retirement, where higher grade has been held, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 362 of this title.

§ 354. Voluntary retirement after thirty years' service

Any enlisted man who has completed thirty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service, with retired pay of the grade or rating with which retired.

(Aug. 4, 1949, ch. 393, 63 Stat. 521.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 175 (Jan. 28, 1915, ch. 20, § 3, 38 Stat. 801).

Said section has been divided. That part dealing with retirement of enlisted men is placed in this section. That part dealing with retirement of commissioned officers is placed in section 231 of this title. That part dealing with retirement of warrant officers is placed in section 304 of this title. That part providing for retired pay is incorporated in section 423 of this title. That part providing for assignment of duties to retired personnel is incorporated in sections 241, 311, and 360 of this title.

The authority to approve was granted to the Commandant in lieu of the Secretary. 81st Congress, House Report No. 557.

CROSS REFERENCES

Retirement, where higher grade has been held, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 362 of this title.

§ 355. Voluntary retirement after twenty years' service

Any enlisted man who has completed twenty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service, with retired pay of the grade or rating with which retired.

(Aug. 4, 1949, ch. 393, 63 Stat. 521.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 185a (May 24, 1939, ch. 146, § 2, 53 Stat. 755).

Changes were made in phraseology. 81st Congress, House Report No. 557.

CROSS REFERENCES

Retirement where higher grade has been held, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 362 of this title.

[§ 356. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 521, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

§ 357. Enlisted Personnel Board

(a) The Commandant shall assemble annually a Coast Guard Enlisted Personnel Board, of not less than three commissioned officers on the active list, who shall recommend for retirement such enlisted men who have twenty years of service, as the Board determines, in its discretion, should be retired from active service. The recommendations of the Board shall be transmitted to the Commandant for final action. If the Commandant approves the recommendations of the Board, the enlisted men concerned shall be notified thereof in writing, and any enlisted man who, within thirty days after receipt of such notification, files with the Commandant a written protest of the action taken by the Board in his case, shall not be retired involuntarily under this section unless a subsequent annual Board again determines, in its discretion, and recommends that such enlisted man should be retired, in which case such enlisted man may, upon approval by the Commandant, be retired from active service. At the expiration of thirty days after receipt by an enlisted man of notice as aforesaid, in the event that no such protest is filed by him within the period prescribed, such enlisted man may, upon approval by the Commandant, be retired from active service. If the Commandant disapproves any recommendation of the Board the enlisted man concerned shall retain his status to the same extent as if his case had not been considered.

(b) Any enlisted man who has completed twenty years' service and who has been retired from active duty by the Commandant pursuant to the action of an Enlisted Personnel Board shall receive the retired pay of the grade or rating with which retired.

(c) Any enlisted man retired by reason of twenty years' service, whether voluntarily or involuntarily, who has been cited for extraordinary heroism in line of duty, as determined by the Secretary, whose determination shall be final and conclusive, shall be entitled to have his retired pay increased by an amount equal to 10 per cent of the active-duty pay and permanent additions thereto of the grade or rating with which retired.

(Aug. 4, 1949, ch. 393, 63 Stat. 521; Aug. 3, 1950, ch. 536, § 17, 64 Stat. 407; Sept. 6, 1963, Pub. L. 88–114, § 1(1), 77 Stat. 144.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 185, 185d (May 24, 1939, ch. 146, §§ 1, 5, 53 Stat. 755).

Subsection (b) is new and implements the preceding subsection; it seems necessary in view of certain statutes enacted as the result of World War II.

Subsection (c) is based on title 14, U.S.C., 1946 ed., § 185d (May 24, 1939, ch. 146, § 5, 53 Stat. 756). Said section has been divided. The first sentence is incorporated in section 423 of this title. The second proviso is incorporated in section 424 of this title. The remainder is placed in this subsection.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1963—Subsec. (c). Pub. L. 88–114 eliminated provisions which entitled enlisted men whose average marks in conduct were not less than 97½ percent of the maximum to a 10-percent increase of their retired pay.

1950—Subsec. (c). Act Aug. 3, 1950, substituted "years' " for "years".

SERVICE CREDIT FOR CERTAIN ENLISTED PERSONNEL

Act June 3, 1948, ch. 394, 62 Stat. 302, provided: "That those enlisted men of the Coast Guard who, during 1940 and 1941, were discharged from the Coast Guard to accept employment as policemen and guards at the Ivigtut Cryolite Mine, Greenland, and who reenlisted in the Coast Guard within three months after the termination of their service as such policemen and guards, shall be credited with the time between discharge and reenlistment for purposes of longevity pay and retirement, but no increased retroactive pay shall accrue by reason of the enactment of this Act."

ENLISTED MEN IN SERVICE ON SEPTEMBER 6, 1963

Section 2 of Pub. L. 88–114 provided that: "The amendment made by subsection (1) of section 1 of this Act [to subsec. (c) of this section] does not apply to any enlisted man in service on the effective date of this Act [Sept. 6, 1963]."

CROSS REFERENCES

Retirement where higher grade has been held, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 362 of this title.

[§ 358. Repealed. Pub. L. 88–114, § 1(2), Sept. 6, 1963, 77 Stat. 144]

Section, act Aug. 4, 1949, ch. 393, § 1, 63 Stat. 522, limited the number of retirements in a calendar year of enlisted men who had completed 20 years of service, to not more than the whole number nearest 1 percent of the total enlisted force on the active list, and any men so authorized to be retired annually who were not so retired, could be retired during any subsequent year providing the total retired in that year did not exceed 3 percent of the total enlisted force.

§ 359. Recall to active duty during war or national emergency

In times of war or national emergency, the Commandant may order any enlisted man on the retired list to active duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 18, 64 Stat. 407.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 185c (May 24, 1939, ch. 146, § 4, 53 Stat. 755).

This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§ 240 and 310 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

AMENDMENTS

1950—Act Aug. 3, 1950, eliminated all references to pay.

§ 360. Recall to active duty with consent of man

Any enlisted man on the retired list may, with his consent, be assigned to such duties as he may be able to perform, except that no enlisted man on the retired list who has reached the age of sixty-two years shall be recalled in time of peace.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 19, 64 Stat. 407.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 185c (May 24, 1939, ch. 146, § 4, 53 Stat. 755).

This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§ 241 and 311 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

AMENDMENTS

1950—Act Aug. 3, 1950, eliminated all references to pay.

§ 361. Relief of retired man promoted while on active duty

Any enlisted man on the retired list recalled to active duty who during such active duty is advanced to a higher grade or rating under a permanent or temporary appointment or promotion shall, upon relief from active duty be advanced on the retired list to the highest grade or rating held while on active duty. In case the appointment or promotion was temporary the advancement on the retired list shall be made only to such grade or rating in which the man served satisfactorily on active duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 20, 64 Stat. 407.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., §§ 3501(a) and (b), 350j(b) (July 24, 1941, ch. 320, § 10, 55 Stat. 605; Feb. 21, 1946, ch. 34, § 8(a), 60 Stat. 28).

Said sections have application to officers only, but in accord with the general plan to make as many provisions as possible applicable both to officers and men, it seems highly desirable to provide similarly for enlisted men—a fortiori because there are cases in the Coast Guard in which enlisted men are suffering inequitably because there is no provision for advancing men on the retired list after they have been advanced in rating while serving on active duty after recall from the retired list. 81st Congress, House Report No. 557.

AMENDMENTS

1950—Act Aug. 3, 1950, eliminated all references to pay.

§ 362. Retirement in cases where higher grade or rating has been held

Any enlisted man who is retired under any provision of section 353, 354, 355, or 357 of this chapter shall be retired from active service with highest grade or rating held by him while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory, but not lower than his permanent grade or rating, with retired pay of the grade or rating with which retired.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 21, 64 Stat. 407.)

HISTORICAL AND REVISION NOTES

Based on title 34, U.S.C., 1946 ed., § 3501(e) (July 24, 1941, ch. 320, § 10, 55 Stat. 605; Feb. 21, 1946, ch. 34, § 8(a), 60 Stat. 28).

The requirement that the higher grade or rating be held prior to June 30, 1946 has been eliminated; this seems to be in line with the intent of Congress as expressed in section 303 of the act of June 29, 1948, ch. 708, 62 Stat. 1081. The act of July 24, 1941, 55 Stat. 605, was enacted primarily for application to Navy personnel but it is made applicable to Coast Guard personnel by its own terms (see title 34, U.S.C., 1946 ed., § 350j(b)). 81st Congress, House Report No. 557.

AMENDMENTS

1950—Act Aug. 3, 1950, struck out reference to section 356.

[§§ 363, 364. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 363, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 364, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10, Armed Forces.

§ 365. Extension of enlistments

Under regulations prescribed by the Secretary, the term of enlistment of any enlisted man may, by voluntary written agreement, be extended and re-extended for a period not exceeding six full years from the date of expiration of the then-existing term of enlistment, and subsequent to such date an enlisted man who so extends his term of enlistment shall receive the same pay and allowances in all respects as though regularly discharged and reenlisted immediately upon expiration of his term of enlistment. However, the total of all such extensions of an enlistment may not exceed six years. No such extension shall operate to deprive the enlisted man concerned, upon discharge at the termination thereof, of any right, privilege, or benefit to which he would have been entitled if his term of enlistment had not been so extended.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; May 14, 1960, Pub. L. 86-474, § 1(18), 74 Stat. 146.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 35 (May 26, 1906, ch. 2556, § 1, 34 Stat. 200; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 30, 1937, ch. 545, § 1, 50 Stat. 547; July 11, 1941, ch. 290, § 8, 55 Stat. 586).

Said section has been divided. Subsection (b) is placed in this section. The provisions of the first sentence of subsection (a) are placed in section 351 of this title. The proviso of subsection (a) is covered in section 367(b) of this title. Subsections (c) and (d) are placed in section 367(a) of this title, except that part (3) of subsection (c) is covered in section 366 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86-474 increased the maximum term for extension of a reenlistment period from four to six years.

CROSS REFERENCES

Inclusion of conditions in enlistment contract, see section 369 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 369 of this title.

§ 366. Retention beyond term of enlistment in case of disability

Any enlisted man of the Coast Guard in the active service whose term of enlistment expires while he is suffering disease or injury incident to service and not due to misconduct, and who is in need of medical care or hospitalization,

may, with his consent, be retained in such service beyond the expiration of his term of enlistment. Any such enlisted man shall be entitled to receive at Government expense medical care or hospitalization and his pay and allowances, including credit for longevity, until he shall have recovered to such extent as would enable him to meet the physical requirements for reenlistment, or until it shall have been ascertained by competent authority of the Coast Guard that the disease or injury is of a character that recovery to such an extent would be impossible. Any enlisted man whose enlistment is so extended shall be subject to forfeitures in the same manner and to the same extent as if his term of enlistment had not expired. Nothing contained in this section shall prevent any enlisted man from being held in the service without his consent under section 367 of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 523.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 35b (Dec. 12, 1941), ch. 566, 55 Stat. 797).

The parenthetical part, which has no application insofar as the Coast Guard is concerned, has been eliminated.

Inasmuch as the act cited above applies equally to the Army, Navy, and Marine Corps, as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 14 of this act to eliminate reference to the Coast Guard.

Changes were made in phraseology. 81st Congress, House Report No. 557.

CROSS REFERENCES

Inclusion of conditions in enlistment contract, see section 369 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 369 of this title.

§ 367. Detention beyond term of enlistment

(a) Under regulations prescribed by the Secretary, an enlisted man may be detained in the Coast Guard beyond the term of his enlistment:

(1) until the first arrival of the vessel on which he is serving at its permanent station, or at a port in a State of the United States or in the District of Columbia; or

(2) if attached to a shore station beyond the continental limits of the United States or in Alaska, until his first arrival at a port in any State of the United States or in the District of Columbia where his reenlistment or discharge may be effected, or until he can be discharged or reenlisted at his station beyond the continental limits of the United States or in Alaska, whichever is earlier, but in no event to exceed three months; or

(3) during a period of war or national emergency as proclaimed by the President, and, in the interest of national defense, for a period not to exceed six months after the end of the war or the termination of the emergency; or

(4) for a period of not exceeding thirty days in other cases whether or not specifically covered by this section, when essential to the public interests, and the determination that such detention is essential to the public interests, made in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

Any person detained in the Coast Guard as provided in this section shall be entitled to receive pay and allowances and benefits under the same conditions as though his enlistment period had not expired, and shall be subject in all respects to the laws and regulations for the government of the Coast Guard until his discharge therefrom. Enlisted men detained under the provisions of (1) of this subsection shall be entitled to the pay and allowances provided for enlisted personnel of the Navy detained under similar circumstances.

[(b), (c). Repealed. July 24, 1956, ch. 692, § 2 (4), 70 Stat. 631.]

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Aug. 3, 1950, ch. 536, § 22, 64 Stat. 407; July 24, 1956, ch. 692, §§ 2(4), 3, 70 Stat. 631.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 35, 35a, 35c (May 26, 1906, ch. 2556, § 1, 34 Stat. 200; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 30, 1937, ch. 545, § 1, 50 Stat. 547; July 11, 1941, ch. 290, § 8, 55 Stat. 586; Aug. 18, 1941, ch. 364, § 3, 55 Stat. 629; Dec. 13, 1941, ch. 570, § 5, 55 Stat. 799).

Section 35 of title 14, U.S.C., 1946 ed., has been divided. The proviso of subsection (a) is covered by subsection (b) of this section. Subsections (c) and (d) are placed in subsection (a) of this section, except that part (3) of subsection (c) is covered in section 366 of this title. The first sentence of subsection (a) is placed in section 351 of this title. Subsection (b) is placed in section 365 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1956—Subsec. (a). Act July 24, 1956, §§ 2(4), 3, repealed former clause (3), permitting the detention of enlisted members beyond the term of their enlistment while waiting disciplinary action or trial and disposition of their case, eliminated provisions prohibiting the payment of pay or allowances for any period beyond the term of enlistment if the trial of such members results in conviction, and redesignated clauses (4) and (5) as (3) and (4). See section 972 of Title 10, Armed Forces.

Subsecs. (b) and (c). Act July 24, 1956, § 2(4), repealed subsecs. (b) and (c), which required enlisted members to make good time lost by unauthorized absence from duty, or by confinement under sentence or pending trial, or by reason of sickness resulting from misconduct. See section 972 of Title 10, Armed Forces.

1950—Subsec. (c). Act Aug. 3, 1950, added subsec. (c).

CROSS REFERENCES

Inclusion of conditions in enlistment contract, see section 369 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 366, 369 of this title.

§ 368. Discharge in case of under-age enlistment

Upon presentation of satisfactory evidence as to his age and upon application for discharge by his parent or guardian presented to the Coast Guard within ninety days after the date of his enlistment, any man enlisted in the Coast Guard under twenty-one years of age who was enlisted without the written consent of his parent or guardian, if any, shall be discharged by reason of minority.

(Aug. 4, 1949, ch. 393, 63 Stat. 524.)

HISTORICAL AND REVISION NOTES

It is believed desirable to make provision for the discharge of minors who enlist by concealing their true age without consent of their parents. This provision is similar to the Navy statute (see title 34, U.S.C., 1946 ed., § 181). 81st Congress, House Report No. 557.

CROSS REFERENCES

Discharge—
Allowances to underage discharged persons, see section 473 of this title.
Badges and buttons, see section 503 of this title.
Courts-martial, jurisdiction of discharged person, see section 803 of Title 10, Armed Forces.
Inclusion of conditions in enlistment contract, see section 369 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 369 of this title.

§ 369. Inclusion of certain conditions in enlistment contract

The enlistment contract shall contain the substance of sections 365 to 368, inclusive, of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 524.)

HISTORICAL AND REVISION NOTES

It is believed desirable to have the provisions specified included in the enlistment contract, as they include certain privileges and obligations that any man should clearly understand before enlisting. 81st Congress, House Report No. 557.

§ 370. Discharge within three months before expiration of enlistment

Under regulations prescribed by the Secretary, any enlisted man may be discharged at any time within three months before the expiration of his term of enlistment or extended enlistment without prejudice to any right, privilege, or benefit that he would have received, except pay and allowances for the unexpired period not served, or to which he would thereafter become entitled, had he served his full term of enlistment or extended enlistment.

(Added June 8, 1955, ch. 136, § 2, 69 Stat. 88.)

§ 371. Aviation cadets; procurement; transfer

(a) The grade of aviation cadet is established as a special enlisted grade in the Coast Guard. Under such regulations as the Secretary prescribes, male citizens in civil life may be enlisted as, and male enlisted members of the Coast Guard with their consent may be designated as, aviation cadets.

(b) Except in time of war or national emergency declared by Congress, not less than 20 per centum of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Coast Guard.

(c) No persons may be enlisted or designated as an aviation cadet unless—

(1) he agrees in writing that, upon his successful completion of the course of training as an aviation cadet, he will accept a commission as an ensign in the Coast Guard Reserve and will serve on active duty as such for at least three years, unless sooner released; and

(2) if under twenty-one years of age, he has the consent of his parent or guardian to his agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the Coast Guard, released from active duty, or discharged.

(Added Pub. L. 89-444, § 1(20), June 9, 1966, 80 Stat. 196.)

§ 372. Aviation cadets; benefits

Except as provided in section 402(c) of title 37, aviation cadets or their beneficiaries are entitled to the same allowances, pensions, gratuities, and other benefits as are provided for enlisted members in pay grade E-4. While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States.

(Added Pub. L. 89-444, § 1(20), June 9, 1966, 80 Stat. 197.)

§ 373. Aviation cadets; appointment as Reserve officers

(a) An aviation cadet who fulfills the eligibility requirements of section 2003 of title 10 for designation as a naval aviator may be appointed an ensign in the Coast Guard Reserve and designated a Coast Guard aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary in this regard is conclusive.

(Added Pub. L. 89-444, § 1(20), June 9, 1966, 80 Stat. 197, and amended Pub. L. 94-546, § 1(28), Oct. 18, 1976, 90 Stat. 2521.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-546 substituted reference to section 2003 of title 10 for reference to section 6023(b) of title 10.

GENERAL PROVISIONS

§ 421. Retirement

(a) Every commissioned officer, warrant officer, or enlisted man who is retired under any provisions of this title shall be retired with the permanent grade or rating held at the time of retirement, unless entitled to retire with a higher grade or rating under any provision of this title or any other law.

(b) Where an officer is entitled, under any provision of law, to retire with one grade higher than the grade in which serving at the time of retirement, the next higher grade in the case of captain shall be rear admiral, and the next higher grade in the case of commissioned warrant officer shall be lieutenant (Junior grade).

(Aug. 4, 1949, ch. 393, 63 Stat. 524.)

HISTORICAL AND REVISION NOTES

Subsection (a) is new in this form, but the provision contained therein is expressed or implied in numerous statutes relating to the retirement of military personnel.

A provision defining the next higher grade to that of commissioned warrant officer as lieutenant (junior grade), for purposes of retirement, was added.

The other provisions of said section are obsolete and are no longer needed.

Subsection (a) is new, but the provision contained in it is expressed or implied in numerous statutes relating to retirement of military personnel. It is believed desirable to include such a provision to prevent any misconstruction of retirement statutes, even though no change in existing law is intended on the point covered, either by other sections dealing with retirement or by this section.

Subsection (b) is a codification of the only provision of title 14, U.S.C., 1946 ed., § 174, that it is desired to retain, and in addition designated the next higher grade for commissioned warrant officers as lieutenant (junior grade) because the pay of the commissioned warrant officers is the same as for the grade of lieutenant (junior grade) and advancing such officers to the grade of ensign. 81st Congress, House Report No. 557.

CROSS REFERENCES

Bureau of Customs, personnel of former Bureau of Customs, see section 433 of this title.

Bureau of Marine Inspection and Navigation, personnel of former bureau, see section 433 of this title.

Credits for services as civilian employee in computing retirement, see section 434 of this title.

Enlisted men, see section 353 et seq. of this title.

Highest grade or rating to be taken, see section 424 of this title.

Officers, see section 282 et seq. of this title.

§ 422. Status of recalled personnel

All retired personnel when recalled to active duty shall serve in the grade or rating in which they were serving at the time of retirement.

(Aug. 4, 1949, ch. 393, 63 Stat. 524.)

HISTORICAL AND REVISION NOTES

This provision is desirable because many enlisted men and low-ranking officers may now retire with higher grade which they previously held on a temporary basis. If recalled in the higher grades, they might not be capable of holding same at the time of recall. 81st Congress, House Report No. 557.

§ 423. Computation of retired pay

The retired pay of a grade or rating shall be computed at the rate of 2½ percent of the sum of the basic pay of that grade or rating, and all permanent additions thereto including longevity credit to which the officer or enlisted man concerned was entitled at the time of retirement, multiplied by the number of years of service that may be credited to him under section 1405 of title 10. In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, his retired pay shall be computed at the highest basic pay applicable to him while he so served, if that basic pay is greater than the basic pay of the grade or rating to which he was otherwise entitled at the time of retirement. In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service the retired pay shall be 2½ percent of his basic pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which he would be entitled to credit in the computation of pay on the active list had he been serving in the grade of captain at the time of his retirement. A fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of 2½ percent is multiplied.

(Aug. 4, 1949, ch. 393, 63 Stat. 525; Aug. 3, 1950, ch. 536, § 23, 64 Stat. 407; May 20, 1958, Pub. L. 85-422, § 11(b), 72 Stat. 132; Oct. 2, 1963, Pub. L. 88-132, § 5(i), 77 Stat. 214; Oct. 2, 1972, Pub. L. 92-455, § 2, 86 Stat. 761.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 162a, 167, 175c, 185d (Apr. 12, 1902, ch. 501, § 9, 32 Stat. 101; Jan. 12, 1938, ch. 3, § 3, 52 Stat. 5; May 24, 1939, ch. 146, § 5, 53 Stat. 756; Feb. 21, 1946, ch. 34, § 10, 60 Stat. 29).

Section was enlarged to include computation of retired pay in all situations. It is in accord with the provisions of Navy statutes. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Pub. L. 92-455 provided for computation of retired pay of an enlisted member serving as the master chief petty officer of the Coast Guard at the highest basic pay applicable to him while he so served, if that basic pay is greater than the basic pay of the grade or rating to which he was otherwise entitled at the time of retirement.

1963—Pub. L. 88-132 substituted "basic" for "active-duty" wherever appearing.

1958—Pub. L. 85-422 substituted "that may be credited to him under section 1405 of title 10" for "for which he was entitled to credit in the computation of his pay when last on active duty".

1950—Act Aug. 3, 1950, eliminated reference to computation of pay of retired personnel retired by reason of physical disability.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-422 effective on June 1, 1958.

CROSS REFERENCES

Commissioned officers, reduction of retired pay during reemployment, see section 5532 of Title 5, Government Organization and Employees.

Enlisted men, generally, see section 353 et seq. of this title.

Lighthouse Service, personnel of former Lighthouse Service, see section 432 of this title.

Pay grades for basic pay purposes, see section 201 of Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 288 of this title.

§ 424. Limitations on retirement and retired pay

The provisions of any section of this title shall not be construed so as to prevent any officer or enlisted man from being placed on the retired list with the highest grade or rating and the highest retired pay to which such officer or enlisted man may be entitled under the provisions of any other section of this title or under the provisions of any other law. In no case shall the retired pay of an officer or enlisted man exceed 75 percent of the sum of the active-duty pay and all permanent additions thereto, including longevity credit to which the officer or

enlisted man concerned is entitled, of the grade or rating on which his pay is computed.

(Aug. 4, 1949, ch. 393, 63 Stat. 525.)

HISTORICAL AND REVISION NOTES

The two provisions of this section are considered desirable as safeguards to eliminate any possible misconstruction of situations relating to retirement and retired pay in respect to the two points covered. 81st Congress, House Report No. 557.

[§ 425. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 525, related to retiring boards. See section 1216 of Title 10, Armed Forces.

SPECIAL PROVISIONS

§ 431. Personnel of former Life Saving Service

(a) If any keeper or member of a crew of a Coast Guard station shall be so disabled by reason of any wound or injury received or disease contracted in the Coast Guard in the line of duty as to unfit him for the performance of duty, such disability to be determined in such manner as shall be prescribed in the regulations of the Coast Guard, he shall be continued upon the rolls of the Coast Guard and entitled to receive his full pay during the continuance of such disability, not to exceed the period of one year, unless the Commandant shall recommend, upon a statement of facts, the extension of the period through a portion or the whole of another year, and said recommendation receive the approval of the Secretary of the Treasury as just and reasonable; but in no case shall said disabled keeper or member of a crew be continued upon the rolls or receive pay for a longer period than two years.

(b) Any individual who served in the former Life Saving Service of the United States as a keeper or surfman, and who on account of being so disabled by reason of a wound or injury received or disease or loss of sight contracted in such service in line of duty as to unfit him for the performance of duty was continued upon the rolls of the service for an aggregate period of one year or more under the provisions of subsection (a) of this section, and who ceased to be a member of such service on account of such disability, which disability has been continuous up to and including April 14, 1930, shall, upon making due proof of such facts in accordance with such rules and regulations as the Secretary of the Treasury may prescribe, be awarded compensation for such injury at the rate of 100 per centum of the pay he was receiving at the time of his separation from such service, such compensation to commence from April 14, 1930, and continue during his natural life. No such individual shall receive a pension, pay, or other allowance under any other law of the United States for the same period for which he receives retired pay under the provisions of this section.

(c) No agent, attorney, or other person engaged in preparing, presenting, or prosecuting any claim under the provisions of subsection (b) of this section shall, directly or indirectly, contract for, demand, receive, or retain for such services in preparing, presenting, or prosecuting such claim a sum greater than $10, which sum shall be payable only on the order of the Secretary of the Treasury; and any person who shall violate any of the provisions of this subsection, or shall wrongfully withhold from the claimant the whole or any part of retired pay allowed or due such claimant under said subsection, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for each and every offense, be fined not exceeding $500 or be imprisoned not exceeding one year, or both, in the discretion of the court.

(Aug. 4, 1949, ch. 393, 63 Stat. 526; Aug. 3, 1950, ch. 536, § 24, 64 Stat. 407.)

HISTORICAL AND REVISION NOTES

The following statement appeared in Senate Report No. 656, 81st Congress, in explanation of Senate Judiciary Committee amendment no. 3 which added sections 431, 432, and 433:

There are, at present, in the Coast Guard certain personnel who were transferred from the former Life Saving Service, the Lighthouse Service, the Bureau of Marine Inspection and Navigation, and the Bureau of Customs. The number of such personnel is not large and no new personnel can be taken on in these categories. As time goes on the numbers will be reduced by death or resignation and any other method of leaving the service until, eventually, there will be no one remaining in any of these groups. Certain laws appearing in existing title 14 applicable to such personnel were not included in this bill as it passed the House. The reason for such omission was that such laws were temporary in that they would eventually apply to no one, although no definite termination date was fixed in the law. While recognizing this fact, this committee feels that since said laws apply to a class of personnel and will so apply for an indeterminate period in the future, it is desirable to include such laws in this codification, subject to being repealed at such time as there are no longer any personnel in the Coast Guard, active or retired, to whom these sections would be applicable.

Proposed section 431(a) is based upon title 14, U.S.C. 1946 ed. § 178 (May 4, 1882, ch. 117, sec. 7, 22 Stat. 57; Jan. 28, 1915, ch. 20, sec. 1, 38 Stat. 800.)

Proposed section 431(b) is based upon title 14, U.S.C., 1946 ed., § 178a (Apr. 14, 1930, ch. 148, sec. 1, 46 Stat. 164; July 30, 1947, ch. 393, 61 Stat. 674).

Proposed section 431(c) is based on title 14, U.S.C., 1946 ed., § 178b (Apr. 14, 1930, ch. 148, sec. 2, 46 Stat. 165).

Proposed section 432(a) is based on title 14, U.S.C., 1946 ed., § 10g (Aug. 5, 1939, ch. 477, § 2, 53 Stat. 1216).

Proposed section 432(b) is based on title 14, U.S.C., 1946 ed., § 10h (Aug. 5, 1939, ch. 477, § 3, 53 Stat. 1216).

Proposed section 432(c) is based on title 14, U.S.C., 1946 ed., § 50 (Aug. 5, 1939, ch. 477, § 8, 53 Stat. 1217).

Proposed section 432(d) is based on title 14, U.S.C., 1946 ed., § 180 (Aug. 5, 1939, ch. 477, § 6, 53 Stat. 1217; June 24, 1948, ch. 627, 62 Stat. 644).

Proposed section 432(e) is based on title 14, U.S.C., 1946 ed., § 181 (Aug. 5, 1939, ch. 477, § 7, 53 Stat. 1217).

Proposed section 432(f) is based on section 1 of Public Law 143, 81st Congress, approved June 29, 1949.

Proposed section 432(g) is based on sections 2 and 3 of Public Law 143, 81st Congress, approved June 29, 1949.

Proposed section 433(a) is based on title 14, U.S.C., 1946 ed., § 6e (July 23, 1947, ch. 301, § 8, 61 Stat. 412).

Proposed section 433(b) is based on title 14, U.S.C., 1946 ed., § 6f (July 23, 1947, ch. 301, § 9, 61 Stat. 412).

Proposed section 433(c) is based on title 14, U.S.C., 1946 ed., § 21b (July 23, 1947, ch. 301, § 10, 61 Stat. 412).

Proposed section 433(d) is based on title 14, U.S.C., 1946 ed., § 35d (July 23, 1947, ch. 301, § 15, 61 Stat. 413).

Proposed section 433(e) is based on title 14, U.S.C., 1946 ed., § 50e (July 23, 1947, ch. 301, § 14, 61 Stat. 413).

Proposed section 433(f) is based on title 14, U.S.C., 1946 ed., § 182 (July 23, 1947, ch. 301, § 11, 61 Stat. 412).

Proposed section 433(g) is based on title 14, U.S.C., 1946 ed., § 183 (July 23, 1947, ch. 301, § 12, 61 Stat. 413).

Proposed section 433(h) is based on title 14, U.S.C., 1946 ed., § 121d (July 23, 1947, ch. 301, § 13, 61 Stat. 413).

AMENDMENTS

1950—Subsec. (b). Act Aug. 3, 1950, changed "1940" to "1930".

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 438 of this title.

§ 432. Personnel of former Lighthouse Service

(a) Any person of the former Lighthouse Service commissioned as an officer in the Coast Guard shall be an extra number in his grade and in the grades to which he may be promoted. He shall take precedence (1) with other officers commissioned in his grade from the former Lighthouse Service as the Secretary of the Treasury may determine, and (2) with other line officers in his grade in accordance with the respective dates of their commissions in such grade. He shall be eligible for promotion, if otherwise qualified, at such time as the officer in a regular number in line of promotion next above him on the seniority list becomes eligible for promotion; or if there be no such officer in his grade, he shall be eligible for promotion, if otherwise qualified, when a vacancy occurs in the next higher grade. An officer so commissioned shall be assigned to duty for which he is specially qualified, and professional examinations for promotion given to such officer shall embrace only subjects which pertain to the duty to which he is assigned.

(b) Each vacancy (1) hereafter occurring in the extra numbers of such officers; (2) existing on August 5, 1939, in positions in the Lighthouse Service formerly held by personnel eligible for such commissions; and (3) created by the retirement, resignation, death, or separation from the service for any other cause, of such personnel who do not possess the qualifications prescribed by the Secretary of the Treasury or who, being qualified, do not accept a commission thereunder, shall operate to increase by one the total authorized number of line officers of the Coast Guard.

(c) All persons of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard shall be subject to all laws and regulations for the government of the Coast Guard, and nothing contained in this title shall be construed to prevent the application to any of such persons of laws and regulations concerning the military discipline of commissioned and warrant officers and enlisted men of the Coast Guard.

(d) In computing length of service, for the purpose of retirement in the Coast Guard, of any person of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard, there shall be included all service computable for retirement under the provisions of section 763 of title 33; and after July 1, 1948, in computing longevity for the purpose of pay of such person there shall be included all service of such person in the Lighthouse Service.

(e) No person so commissioned, appointed, or enlisted in the Coast Guard shall suffer any reduction in the total of the annual compensation and allowances which he was receiving on the date of his commission, appointment, or enlistment. Upon his retirement from active duty in the Coast Guard, the retired pay of any person so commissioned, appointed, or enlisted, shall not be less than an annuity computed in accordance with the provisions of section 763 of title 33, substituting, however, for purposes of such computation, the annual compensation which he was receiving on the date of his commission, appointment, or enlistment in the Coast Guard for the average annual pay received by him for the last five years of service.

(f) Notwithstanding any other provision of law, the civil service classification laws and titles II and III of the Federal Employees Pay Act of 1945 as amended shall not apply to civilian keepers of lighthouses and to civilians employed on lightships and other vessels of the Coast Guard.

(g) The head of the department in which the Coast Guard is operating under regulations prescribed by him, may regulate the hours of duty and the pay of civilian keepers of lighthouses and civilians employed on lightships and other vessels of the Coast Guard, but such personnel may be called upon for duty in emergency circumstances or otherwise at any time or all times. The existing system governing the pay of such employees may be continued or changed except that overtime compensation, night differential, and extra pay for duty on holidays shall not be paid to such employees. In lieu thereof additional annual compensation may be authorized, which may be prescribed either as a fixed differential or as a percentage of the basic compensation otherwise applicable to such employees. In no case shall basic compensation exceed $7,500 per annum, except that nothing contained in this subsection shall operate to decrease the basic compensation of any person employed by the Coast Guard on the date of enactment of this subsection, and in no case shall additions thereto exceed 25 per centum of such basic compensation. Provision may be made for compensatory absence from duty when conditions of employement result in confinement because of isolation or in long periods of continuous duty; and provisions may likewise be made for extra allowance for service outside of the continental limits of the United States.

The additional compensation authorized herein shall be included in any computation of compensation for purposes of the Lighthouse Service Retirement Act.

(Aug. 4, 1949, ch. 393, 63 Stat. 526; Aug. 9, 1955, ch. 650, §§ 1, 2, 69 Stat. 577; Sept. 21, 1959, Pub. L. 86-309, 73 Stat. 585; June 12, 1970, Pub. L. 91-278, § 1(10), 84 Stat. 305.)

HISTORICAL AND REVISION NOTES

See note under section 431 of this title.

REFERENCES IN TEXT

The civil service classification laws, referred to in subsec. (f), are classified to chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5, Government Organization and Employees.

Titles II and III of the Federal Employees Pay Act of 1945 (act June 30, 1945, ch. 212), referred to in subsec. (f), were repealed and the provisions thereof reenacted as sections 5542 to 5546 of title 5 by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

The "Lighthouse Service Retirement Act", referred to in the text of subsec. (g), was not so designated when enacted. See, however, act June 20, 1918, ch. 103, § 6, 40 Stat. 608, which is classified to section 763 of Title 33, Navigation and Navigable Waters. See, also, act Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1417, which was classified to former section 764 of such title, and act Mar. 4, 1925, ch. 523, § 1, 43 Stat. 1261, which is classified to section 765 of such title.

AMENDMENTS

1970—Subsec. (g). Pub. L. 91-278 increased basic compensation from $5,100 to $7,500 per annum.

1959—Subsec. (g). Pub. L. 86-309 substituted "$5,100" for "$3,750".

1955—Subsec. (f). Act Aug. 9, 1955, § 1, inserted the words "as amended".

Subsec. (g). Act Aug. 9, 1955, § 2, authorized the head of the department in which the Coast Guard is operating to regulate the hours of duty and pay.

CROSS REFERENCES

Retention on active list—
Captains, see section 289 of this title.
Rear admirals, see section 290 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 290, 438 of this title; title 5 section 5102.

§ 433. Personnel of former Bureau of Marine Inspection and Navigation and Bureau of Customs

(a) Included in the total number of commissioned officers authorized by section 42 of this title shall be four hundred and fifty-three extra numbers to which the President is authorized to appoint only the personnel of the former Bureau of Marine Inspection and Navigation and Bureau of Customs who on March 1, 1942, held the civil service rating of CAF-9 or P-3, or above. In the event that any person from among the personnel eligible to fill such extra numbers does not qualify, or who, being qualified does not accept a commission, the extra numbers not so filled shall be reserved pending the separation of such persons from the Coast Guard by retirement, transfer, resignation, death, or other cause. Upon such separation, each vacancy so reserved, and each vacancy created by the unavailability for appointment of such personnel, or by the retirement, resignation, death, or other separation from the active military service of the Coast Guard of such personnel, shall increase by one the authorized number of line officers, and decrease by one the authorized number of extra numbers.

(b) Any person commissioned from the personnel of the former Bureau of Marine Inspection and Navigation and Bureau of Customs who on March 1, 1942 held civil service rating of CAF-9 or P-3, or above, shall be an extra number in any rank to which he may be promoted. He shall be eligible for promotion, if otherwise qualified, at such time as the regular line officer who is his running mate becomes eligible for promotion, and shall be examined only with respect to those qualifications which pertain to his specialty.

(c) No personnel of the former Bureau of Marine Inspection and Navigation and Bureau of Customs who were transferred from those bureaus to the Coast Guard by Executive Order 9083 and by Reorganization Plan Numbered 3, effective July 16, 1946, shall be required to undergo further professional, physical, or mental examinations as a prerequisite to original commissioning, appointment, or enlistment, and the physical standards for such personnel while serving in the Regular Coast Guard shall not be greater than those applicable generally to civilian employees under civil-service laws and regulations.

(d) Any personnel of the former Bureau of Marine Inspection and Navigation and Bureau of Customs transferred from those bureaus to the Coast Guard by Executive Order 9083 and by Reorganization Plan Numbered 3, effective July 16, 1946, who enlist in the Coast Guard shall be subject to the provisions of subsection (c), and (e)-(h) of this section.

(e) Accrued military leave of any personnel of the former Bureau of Marine Inspection and Bureau of Customs transferred from those bureaus to the Coast Guard by Executive Order 9083 and by Reorganization Plan Numbered 3, effective July 16, 1946, who are members of the Coast Guard Reserve or the Naval Reserve on active duty, and who are commissioned, appointed, or enlisted, shall be credited to them upon such commissioning, appointment, or enlistment.

(f) In computing length of service for purposes of retirement of personnel of the former Bureau of Marine Inspection and Navigation and Bureau of Customs transferred from those bureaus to the Coast Guard by Executive Order 9083 and by Reorganization Plan Numbered 3, effective July 16, 1946, who are commissioned, appointed, or enlisted, there shall be included, in addition to all service now or hereafter creditable by law, all service as a civilian employee of the United States within the purview of sections 691, 693, 698, 707, 709-715, 716-719, 720-725, 727-729, 730, 731, and 733 of title 5; and for all purposes of pay, so much of the service as was rendered as a civilian employee in the former Bureau of Marine Inspection and Navigation (including its predecessors, the Bureau of Navigation and the Steamboat Inspection Service), in the Bureau of Customs and in the Coast Guard. Such service for both retirement and pay purposes shall be classified as commissioned, warrant, or enlisted depending upon which status the person assumes upon his entry into the Regular Coast Guard. Service covering the same period shall not be counted more than once.

(g) Any such person shall not be entitled to any retirement benefits under any laws relating to the retirement of civilian personnel of the Federal Government, but shall be entitled upon claim therefor to a return of the total contributions made by him to the retirement fund with interest thereon and, in addition, to eligibility for retirement benefits provided by law for members of the Regular Coast Guard, he shall, if his total service in the Federal Government,

civil plus military, is fifteen years or over, be entitled, upon reaching the statutory retirement age for military personnel of the Regular Coast Guard, to retirement pay amounting to 75 per centum of his active-duty pay at the time of such retirement; and, in the administration of applicable laws for physical disability retirement, a disability shall be deemed to have been incurred incident to Coast Guard service if the cause of such disability is not due to vicious habits, intemperance, or misconduct.

(h) No personnel of the former Bureau of Marine Inspection and Navigation and Bureau of Customs transferred from those bureaus to the Coast Guard by Executive Order 9083 and by Reorganization Plan Numbered 3, effective July 16, 1946, who are commissioned, appointed, or enlisted in the Coast Guard shall suffer any reduction in annual compensation, including allowances, below the compensation applicable to his permanent civil-service position at the time of such commissioning, appointment, or enlistment, exclusive of overtime compensation, and the civil-service status, tenure, seniority, and compensation of any such person who for any reason is not commissioned, appointed, or enlisted under the provisions of said sections shall not be impaired by reason of said sections.

(i) No personnel of the former Bureau of Marine Inspection and Navigation and Bureau of Customs transferred from those Bureaus to the Coast Guard by Executive Order 9083 and by Reorganization Plan Numbered 3, effective July 16, 1946, who are serving as commissioned officers in the Coast Guard, shall be required to retire from active service under the provisions of section 288 of this title prior to completion of thirty years of active commissioned service, including service creditable for retirement purposes under this section, nor shall any such officers be subject to the provisions of section 289 of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 528; Sept. 27, 1949, ch. 586, 63 Stat. 698; Sept. 24, 1963, Pub. L. 88-130, § 1(11), 77 Stat. 190.)

HISTORICAL AND REVISION NOTES

See note under section 431 of this title.

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (c), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Executive Order No. 9083, referred to in subsecs. (c), (d), (e), (f), (h), and (i), was dated Feb. 28, 1942, 7. F.R. 1609, and dealt with the redistribution of maritime functions.

Reorganization Plan No. 3, eff. July 16, 1946, referred to in subsecs. (c), (d), (e), (f), (h), and (i), is set out in the Appendix to Title 5, Government Organization and Employees.

Sections 691, 693, 698, 707, 709-715, 716-719, 720-725, 727-729, 730, 731, and 733 of title 5, referred to in subsec. (f), was a reference to the Act of May 22, 1920, as amended, known as the Civil Service Retirement Act. The 1920 Act was completely amended by Act May 29, 1930 (46 Stat. 408), and later by title IV of Act July 31, 1956 (70 Stat. 743). The Civil Service Retirement Act was repealed and the provisions thereof reenacted as subchapter III of chapter 83 of Title 5, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-130, § 1(11)(A), substituted "total number of" for "two thousand two hundred and fifty" following "Included in the".

Subsec. (i). Pub. L. 88-130, § 1(11)(B), added subsec. (i).

1949—Subsec. (f). Act Sept. 27, 1949, provided for crediting civilian service for military-pay purposes of former civilian employees of the Bureau of Marine Inspection, Bureau of Customs, and Coast Guard who were transferred to the Regular Coast Guard in a military status by act July 23, 1947, ch. 301, 61 Stat. 410.

CROSS REFERENCES

Civil service grades and schedules, see section 5101 et seq. of Title 5, Government Organization and Employees.

Retention on active list—
Captains, see section 289 of this title.
Rear admirals, see section 290 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 290, 438 of this title.

§ 434. Personnel appointed as constructors

In computing length of service of a person commissioned under the provisions of section 8 of the Act entitled "An Act to readjust the commissioned personnel of the Coast Guard, and for other purposes", approved July 3, 1926 (44 Stat. 817), there shall be included, in addition to all service now or hereafter creditable by law, for all purposes of retirement, all services as a civilian employee of the United States within the purview of sections 691, 693, 698, 707, 709-715, 716-719, 720-725, 727-729, 730, 731, and 733 of title 5; and for all purposes of pay, so much of such service as was rendered as a civilian employee in the Coast Guard. Service covering the same period shall not be counted more than once.

(Added Sept. 23, 1950, ch. 996, 64 Stat. 978.)

REFERENCES IN TEXT

Act July 3, 1926, ch. 742, § 8, 44 Stat. 815, 817, referred to in text, was repealed by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561.

Sections 691, 693, 698, 707, 709-715, 716-719, 720-725, 727-729, 730, 731, and 733 of title 5, referred to in text, was a reference to the Act of May 22, 1920, as amended, known as the Civil Service Retirement Act. The 1920 Act was completely amended by Act May 29, 1930 (46 Stat. 408), and later by title IV of Act July 31, 1956 (70 Stat. 743). The Civil Service Retirement Act was repealed and the provisions thereof reenacted as subchapter III of chapter 83 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

CROSS REFERENCES

Retention on active list—
Captains, see section 289 of this title.
Rear admirals, see section 290 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290 of this title.

[§§ 435 to 437. Repealed. Pub. L. 88-130, § 4(a), Sept. 24, 1963, 77 Stat. 192]

Section 435, act Aug. 10, 1956, ch. 1041, § 9(a), 70A Stat. 620, related to temporary appointments in time of war or national emergency and is now covered by section 214 of this title.

Section 436, act Aug. 10, 1956, ch. 1041, § 9(a), 70A Stat. 621, related to temporary promotions in time of

war or national emergency and is now covered by section 275 of this title.

Section 437, acts Aug. 10, 1956, ch. 1041, § 9(a), 70A Stat. 622; June 28, 1962, Pub. L. 87-509, § 4(b), 76 Stat. 121, related to discharge during war or emergency of officers having less than 20 years of service for unsatisfactory performance of duty.

EXTENSION OF AUTHORITY

Act July 23, 1947, ch. 301, § 16, 61 Stat. 413, as amended June 3, 1948, ch. 395, 62 Stat. 302; Aug. 10, 1956, ch. 1041, § 27, 70A Stat. 631; Sept. 2, 1958, Pub. L. 85-861, § 6, 72 Stat. 1555; Sept. 21, 1961, Pub. L. 87-257, 75 Stat. 538, provided that notwithstanding the limitations in sections 435 and 436 of this title, the authority of such sections could be exercised until the Secretary of the Treasury determined officers holding permanent appointments on the active list equalled 95% of the number authorized, exclusive of extra numbers, or Jan. 1, 1964, whichever occurred earlier. Pub. L. 87-257, Sept. 21, 1961, 75 Stat. 538, was repealed by section 4(b) of Pub. L. 88-130.

§ 438. Laws not applicable to warrant officers of former Life Saving Service, Lighthouse Service, Bureau of Marine Inspection and Navigation, and Bureau of Customs

Sections 101, 515, 555-557, 559-565, 597-599, 745, 1164-1167, 1255, 1263, 1293, 1371, and 1401 of title 10, do not affect any right, privilege, or benefit provided for warrant officers by section 431, 432, or 433 of this title.

(Added Aug. 10, 1956, ch. 1041, § 9(a), 70A Stat. 623, and amended June 9, 1966, Pub. L. 89-444, § 1(21), 80 Stat. 197.)

REFERENCES IN TEXT

Section 1255 of title 10, referred to in text, was repealed by Pub. L. 90-130, § 1(6), Nov. 8, 1967, 81 Stat. 374.

AMENDMENTS

1966—Pub. L. 89-444 struck out reference to section 438 of this title.

[§§ 439, 440. Repealed. Pub. L. 88-130, § 4(a), Sept. 24, 1963, 77 Stat. 192]

Section 439, act July 20, 1956, ch. 647, § 3(a), 70 Stat. 588, related to the oath of office and is now covered by section 273(b) of this title.

Section 440, Pub. L. 85-861, § 33(b)(1), Sept. 2, 1958, 72 Stat. 1567, related to the temporary promotion of warrant officers and is now covered by section 277 of this title.

CHAPTER 13—PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS

Sec.
461. Remission of indebtedness of enlisted members upon discharge.
[462. Repealed.]
462a. Retired rear admirals; retired pay after two years of active duty.
[463 to 466. Repealed.]
467. Computation of length of service.
468. Procurement of personnel.
469. Training.
470. Special instruction at universities.
471. Attendance at professional meetings.
[471a, 472. Repealed.]
473. Allowances to under-age discharged persons.
[474. Repealed.]
475. Leasing and hiring of quarters; rental of inadequate housing.
476. Contingent expenses.
477. Equipment to prevent accidents.
478. Rations or commutation therefor in money.
479. Sales of ration supplies to messes.
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481. Payments at time of discharge for good of service.
482. Clothing at time of discharge for good of service.
483. Right to wear uniform.
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485. Clothing for officers and enlisted personnel.
486. Clothing for destitute shipwrecked persons.
487. Procurement and sale of stores to officers, enlisted men, and civilian employees.
488. Advancement of public funds to personnel.
[489, 490. Repealed.]
491. Medal of honor.
492. Distinguished service medal.
492a. Distinguished flying cross.
493. Coast Guard medal.
494. Insignia for additional awards.
[495. Repealed.]
496. Time limit on award; report concerning deed.
497. Honorable subsequent service as condition to award.
498. Posthumous awards.
499. Delegation of powers to make awards; rules and regulations.
500. Life-saving medals.
501. Replacement of medals.
502. Award of other medals.
503. Awards and insignia for excellence in service or conduct.
[504 to 506. Repealed.]
507. Disposition of effects of decedents.
508. Deserters; payment of expenses incident to apprehension and delivery; penalties.
509. Persons discharged as result of court-martial; allowances to.
510. Shore patrol duty; payment of expenses.
511. Compensatory absence of military personnel at isolated aids to navigation.

HISTORICAL AND REVISION NOTES

Chapter 13 of this title deals with pay, allowances, awards, and other rights and benefits for personnel of the Coast Guard. Some of these sections are new as applied to the Coast Guard, some clarify and consolidate existing law, and others merely restate existing law. There is no intention to amend, enlarge or curtail the Pay Readjustment Act of 1942, as amended. 81st Congress, House Report No. 557.

AMENDMENTS

1970—Pub. L. 91-278, § 1(12), June 12, 1970, 84 Stat. 306, substituted "Leasing and hiring of quarters; rental of inadequate housing" for "Hiring of quarters for personnel" as item 475.

1968—Pub. L. 90-377, § 7, July 5, 1968, 82 Stat. 288, in item 509 substituted "Persons discharged as result of court-martial; allowances to." for "Prisoners; allowances to; transportation.".

1966—Pub. L. 89-718, § 73(c)(2), Nov. 2, 1966, 80 Stat. 1124, struck out reference to pay and allowances and to pay of officers indebted to the United States and added reference to discharge in item 461.

Pub. L. 89-444, § 1(26), June 9, 1966, 80 Stat. 197, eliminated items 462, 464, 465, 466, 474, 504, 505, and 506.

1964—Pub. L. 88-558, § 7(1), Aug. 31, 1964, 78 Stat. 768, deleted item 490 effective two years after Aug. 31, 1964.

1962—Pub. L. 87-651, title III, § 308, Sept. 7, 1962, 76 Stat. 527, eliminated item 471a.

Pub. L. 87-649, § 7(c), Sept. 7, 1962, 76 Stat. 495, eliminated words "active duty pay and" which preceded "retired pay" in item 462a.

Pub. L. 87-526, § 1(2), (4), July 10, 1962, 76 Stat. 141, provided for remission of indebtedness of enlisted members in item 461 and struck out item 495 providing for additional pay for holders of medals.

1956—Act Aug. 10, 1956, ch. 1041, §§ 10(b), 11(b), 12(b), 14(b), 70A Stat. 624, inserted items 462a, 471a, 492a, and 510.

Act Aug. 1, 1956, ch. 837, title V, § 502(8)(B), 70 Stat. 886, repealed item "489. Death gratuity".

1955—Act Aug. 9, 1955, ch. 650, § 3, 69 Stat. 577, added item 511.

1954—Act Sept. 3, 1954, ch. 1263, § 33(a), 68 Stat. 1238, added "; pay of officers indebted to United States" to item 461.

1952—Act July 10, 1952, ch. 631, § 1, 66 Stat. 539, substituted "payment of expenses incident to apprehension and delivery" for "arrest by civil authority" in item 508.

1950—Act Aug. 3, 1950, ch. 536, § 25, 64 Stat. 407, struck out items 463 and 472.

Act May 5, 1950, ch. 169, § 16(b), 64 Stat., 149, added items "508" and "509".

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 755 of this title.

§ 461. Remission of indebtedness of enlisted members upon discharge

If he considers it in the best interest of the United States, the Secretary may have remitted or canceled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before or at the time of, that member's honorable discharge.

(Aug. 4, 1949, ch. 393, 63 Stat. 530; Sept. 3, 1954, ch. 1263, § 33(b), 68 Stat. 1238; July 10, 1962, Pub. L. 87-526, § 1(1), 76 Stat. 141; Sept. 7, 1962, Pub. L. 87-649, § 14d(7), as added Nov. 2, 1966, Pub. L. 89-718, § 73(a)(3), 80 Stat. 1124; Nov. 2, 1966, Pub. L. 89-718, § 73(c)(1), 80 Stat. 1124; Sept. 11, 1967, Pub. L. 90-83, § 2, 81 Stat. 220; Oct. 18, 1976, Pub. L. 94-546, § 1(29), 90 Stat. 2521.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 20a, 121 (May 18, 1920, ch. 190, § 8, 41 Stat. 603; June 10, 1922, ch. 212, 42 Stat. 625; July 3, 1926, ch. 742, § 10, 44 Stat. 817).

Said section 121 was omitted from the 1940 and 1946 editions of the U.S. Code, but it has been held that the assimilation provision thereof is inoperative only insofar as Congress has made specific legislative provision for the Coast Guard, and that benefits derived from legislation pertaining to the Navy previously conferred upon the Coast Guard, and not provided for in subsequent legislation, survive to the Coast Guard under the assimilation statute. (See 27 Comp. Dec. 234; 22 Comp. Gen. 723; decision of June 9, 1947, B-63472; decision of April 2, 1948, B-70438; and decision of September 2, 1948, B-77295.)

It seems desirable to retain this assimilation provision as to pay in order to cover any failure to provide specifically for the Coast Guard in military pay legislation.

This section assimilates the pay of military personnel of the Coast Guard to the pay of military personnel of the Navy. It seems that this is the most feasible method of insuring that the pay of military personnel of the Coast Guard will not vary from the pay of military personnel of the other armed forces. The assimilation is intended to include authorization for extra pay and allowances as provided for personnel of the Navy, for all types of special duty: for example, qualified divers on diving duty, military personnel assigned to submarine duty, military personnel assigned to aviation duty, officers assigned as aides to flag officers, and enlisted persons assigned to duty in the mess detail. Military pay acts are intended to include Coast Guard personnel specifically; this section would cover any failure to so provide for Coast Guard personnel in a pay act.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 substituted "Secretary" for "Secretary of the Treasury".

1967—Pub. L. 90-83 corrected section 73(a)(3) of Pub. L. 89-718 to change the designation of sections repealed under Pub. L. 87-649 from sections 471(a) and (b) of Title 14 to sections 461(a) and (b) of Title 14. See 1966 Amendment note below.

1966—Pub. L. 89-718, § 73(a)(3), amended section 14d of Pub. L. 87-649, which contained in clauses (1) to (6) the list of sections of Title 14 repealed by Pub. L. 87-649, by adding thereto "(7) Section 471(a) and (b)." However, for purposes of codification, the repeal has been executed to former subsecs. (a) and (b) of this section, which provided respectively for the awarding of the same pay and allowances as prescribed for corresponding ranks, grades, or ratings for personnel of the Navy and for the withholding of pay of officers on account of indebtedness to the United States, since this appears to have been the intent of Congress.

Pub. L. 89-718, § 73(c)(1), removed references to pay and allowances and pay of officers indebted to the United States from the section catchline and removed the letter designation "(c)" from the beginning of former subsec. (c), leaving the body of former subsec. (c) as constituting the entire body of the section.

1962—Pub. L. 87-526, § 1(1)(A), amended catchline to provide for remission of indebtedness of enlisted members.

Subsec. (c). Pub. L. 87-526, § 1(1)(B), added subsec. (c).

1954—Act Sept. 3, 1954 inserted "; pay of officers indebted to United States" to the section catchline.

Subsec. (a). Act Sept. 3, 1954 designated existing provisions as subsec. (a).

Subsec. (b). Act Sept. 3, 1954 added subsec. (b).

EFFECTIVE DATE OF 1967 AMENDMENT

Section 9(i) of Pub. L. 90-83 provided that: "Section 2 of this Act [correcting section 73(a)(3) of Pub. L. 89-718] is effective as of November 2, 1966, for all purposes."

CROSS REFERENCES

Erroneous payments, collection of indebtedness, see section 5514 of Title 5, Government Organization and Employees.

Escorts for dependents of members: transportation and travel allowances, see section 1036 of Title 10, Armed Forces.

Forfeiture of pay, see section 815 of title 10.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 755 of this title.

[§ 462. Repealed. Pub. L. 87-649, § 14d(1), Sept. 7, 1962, 76 Stat. 502]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 530; May 14, 1960, Pub. L. 86-474, § 1(19), 74 Stat. 146, related to pay and allowances of rear admirals and is now covered by section 202 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Section repealed effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 462a. Retired rear admirals; retired pay after two years of active duty

Each officer of the Coast Guard holding a permanent appointment in the grade of rear

admiral on the retired list who is entitled to the pay of the lower half of that grade, and who, in time of war or national emergency, serves satisfactorily on active duty for two years in that grade or in a higher grade, is entitled when not on active duty to retired pay equal to 75 percent of the basic pay of a rear admiral of the upper half.

(Added Aug. 10, 1956, ch. 1041, § 10(a), 70A Stat. 623, and amended Sept. 7, 1962, Pub. L. 87-649, § 7(b), 76 Stat. 495.)

AMENDMENTS

1962—Pub. L. 87-649 eliminated provisions which authorized retired rear admirals to receive the basic pay and allowances of a rear admiral of the upper half when on active duty. See section 202 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

[§ 463. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 530, related to continuation of additional pay.

[§§ 464, 465. Repealed. Pub. L. 87-649, § 14d(2), (3), Sept. 7, 1962, 76 Stat. 502]

Section 464, act Aug. 4, 1949, ch. 393, 63 Stat. 531, related to allotments of pay and is now covered by section 703 of Title 37, Pay and Allowances of the Uniformed Services.

Section 465, act Aug. 4, 1949, ch. 393, 63 Stat. 531, related to advances to officers ordered to and from sea or shore duty beyond the seas and is now covered by section 1006 of Title 37.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

[§ 466. Repealed. July 12, 1955, ch. 328, § 5(3), 69 Stat. 296]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 531, provided for the settlement of accounts of deceased officers and men. See section 2771 of Title 10, Armed Forces, and section 714 of Title 32, National Guard.

§ 467. Computation of length of service

In computing length of service of officers and enlisted personnel for any purpose all creditable service in the Army, Navy, Marine Corps, Air Force, Coast Guard, Revenue Cutter Service, and Life Saving Service shall be included in addition to any other creditable service authorized by any other law.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 2 (Jan. 28, 1915, ch. 20, § 3, 38 Stat. 801).

The Air Force is added in the enumeration of services.

That part referring to the operation of a station for part of a year is omitted.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 468. Procurement of personnel

The Coast Guard may make expenditures as necessary in order to obtain recruits for the service and cadet applicants, including advertising.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, "Pay and Allowances" and preceding years: "expenses of recruiting for the Coast Guard; advertising for and obtaining enlisted personnel and applicants for appointment as cadets;" (June 19, 1948, ch. 558, 62 Stat. 562).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 469. Training

The Coast Guard may make expenditures for the training of personnel, including books, school supplies, correspondence courses, motion picture equipment, and other equipment for instructional purposes.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, "Pay and Allowances" and preceding years: "motion picture and other equipment for instructional purposes; . . . training of enlisted personnel, including textbooks, school supplies, and correspondence courses;" (June 19, 1948, 62 Stat. 562).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 470. Special instruction at universities

Coast Guard personnel may be assigned for special instruction at private or state colleges or universities, and their expenses, including tuition, books, laboratory equipment and fees, and school supplies, may be defrayed by the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, "Pay and Allowances" and preceding years: "Not to exceed $32,200 for cost of instruction of officers at non-Federal institutions, including books, laboratory equipment and fees, school supplies, and maintance of students;" (June 19, 1948, ch. 558, 62 Stat. 562).

The monetary limitation is removed.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 471. Attendance at professional meetings

Coast Guard personnel may be directed to attend meetings of technical, professional, scientific, and other similar organizations and may be reimbursed for expenses thereby incurred at the rates authorized by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES

It is believed that the authority contained in this section will greatly benefit the Government in providing better trained personnel. A similar provision was enacted for personnel of the Navy in 1946 (see title 5, U. S. C., 1946 ed., § 421c). 81st Congress, House Report No. 557.

[§ 471a. Repealed. Pub. L. 87-651, title III, § 307B, Sept. 7, 1962, 76 Stat. 526]

Section, act Aug. 10, 1956, ch. 1041, § 11(a), 70A Stat. 624, authorized transportation of motor vehicles on permanent change of station.

[§ 472. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 532, related to travel allowance to enlisted men on discharge. See section 404 of Title 37, Pay and Allowances of the Uniformed Services.

§ 473. Allowances to underage discharged persons

The Secretary, under regulations prescribed by him, may discharge from the Coast Guard, with pay and allowances and discharge certificate found appropriate for their service after enlistment, enlisted persons who have secured enlistment by reason of false statement of age on their applications for enlistment and have therefore been enlisted while under the minimum statutory or administrative age limit. When so discharged or released such enlisted persons shall be furnished transportation in kind and subsistence from the place of discharge to their home.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 900a (Sept. 24, 1945, ch. 385, § 1, 59 Stat. 536).

Said section has application to personnel of the Navy only, but did have application to Coast Guard personnel from the date of enactment to the date of transfer of the Coast Guard back to the Treasury Department. It is believed desirable for such a provision to be applicable to Coast Guard personnel at all times.

Changes were made in phraseology. 81st Congress, House Report No. 557.

REPEALS

Opinion of the Comptroller General, No. B-91297, Dec. 23, 1949, in holding that act Sept. 24, 1945, ch. 385, 59 Stat. 536, from which this section was derived, was superseded by section 303 of the Career Compensation Act of 1949, act Oct. 12, 1949, c. 681, title III, 63 Stat. 813, stated that this section was also inconsistent with said section 303 and therefore repealed. See section 423 of Title 37, Pay and Allowances of the Uniformed Services.

[§ 474. Repealed. Sept. 1, 1954, ch. 1211, § 5, 68 Stat. 1130]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 532, related to compensation for travel tolls and fares. See section 408 of Title 37, Pay and Allowances of the Uniformed Services.

§ 475. Leasing and hiring of quarters; rental of inadequate housing

(a) The Secretary is authorized to lease housing facilities at or near Coast Guard installations, wherever located, for assignment as public quarters to military personnel and their dependents, if any, without rental charge upon a determination by the Secretary, or his designee, that there is a lack of adequate housing facilities at or near such Coast Guard installations. When any such lease involves housing facilities in a foreign country, the lease may be made on a multi-year basis, for a period not to exceed five years. Such public housing facilities may be leased on an individual or multiple-unit basis. Expenditures for the rental of such housing facilities may not exceed the average authorized for the Department of Defense in any year except where the Secretary finds that the average is so low as to prevent rental of necessary housing facilities in some areas, in which event he is authorized to reallocate existing funds to high-cost areas so that rental expenditures in such areas exceed the average authorized for the Department of Defense.

(b) Notwithstanding the provisions of any other law, members of the Coast Guard, with dependents, may occupy on a rental basis, without loss of basic allowance for quarters, inadequate quarters under the jurisdiction of the Coast Guard notwithstanding that such quarters may have been constructed or converted for assignment as public quarters. The net difference between the basic allowance for quarters and the fair rental value of such quarters shall be paid from otherwise available appropriations; however, no rental charge for such quarters shall be made against the basic allowance for quarters of a member of the Coast Guard in excess of 75 per centum of such allowance except that in no event shall the net rental value charged to the member's basic allowance for quarters be less than the cost of maintaining and operating the housing.

(c) The Secretary is authorized, subject to regulations approved by the President—

(1) to designate as rental housing such housing as he may determine to be inadequate as public quarters; and

(2) to lease inadequate housing to members of the Coast Guard for occupancy by them and their dependents.

(d) Where sufficient quarters are not possessed by the United States, the Commandant may hire quarters for personnel, including personnel on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable. Such accommodations shall not be available for occupancy by the dependents of such personnel.

(e) The Secretary shall annually, not later than April 1, file with the Speaker of the House of Representatives and the President of the Senate a complete report of the utilization of the authority granted in subsections (a), (b), (c), and (d) during the preceding calendar year.

(f) The authority conferred by subsection (a), (b), (c), or (d) may not be utilized after April 1, 1973, unless all reports required by subsection (e) have been filed with the Congress.

(Aug. 4, 1949, ch. 393, 63 Stat. 532; June 12, 1970, Pub. L. 91-278, § 1(11), 84 Stat. 305; July 10, 1972, Pub. L. 92-343, § 4, 86 Stat. 450; July 9, 1973, Pub. L. 93-65, § 5, 87 Stat. 151; Sept. 10, 1976, Pub. L. 94-406, § 4, 90 Stat. 1236; Oct. 11, 1976, Pub. L. 94-478, 90 Stat. 2077; Oct. 18, 1976, Pub. L. 94-546, § 1(30), 90 Stat. 2521.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 133a (June 19, 1942, ch. 419, § 2, 56 Stat. 372) and on the following language contained in the Coast Guard appropriation act for 1949, "Pay and Allowances" and preceding years: "hire of quarters for Coast Guard personnel comparable to quarters assignable on a capital ship of

the Navy, as authorized by the Secretary to meet emergency conditions, including officers and men on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable: *Provided*, That under this authorization no funds may be expended for the hire of quarters for occupancy by the dependents of officers or enlisted personnel" (June 19, 1948, ch. 558, 62 Stat. 562).

Changes were made in phraseology. 81st Congress, House Report No. 557.

CODIFICATION

The amendment of this section by section 1(30)(b) of Pub. L. 94-546 has been executed to subsec. (e) of this section as the probable intent of Congress.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-546, § 1(30)(a), substituted "Secretary" for "Secretary of the Department in which the Coast Guard is operating" wherever it appeared.

Pub. L. 94-478 added provision allowing leases for housing facilities in foreign countries to be made on a multi-year basis.

Subsec. (e). Pub. L. 94-546, § 1(30)(b), substituted "Secretary" for "Secretary of the Department in which the Coast Guard is operating" and struck out the phrase "commencing April 1, 1973," which followed "not later than April 1,". See Codification note above.

Pub. L. 94-406, § 4(1), redesignated former subsec. (f) as (e). Former subsec. (e), which provided that the authority conferred by subsecs. (b) and (c) of this section expire on June 30, 1976, was struck out.

Subsec. (f). Pub. L. 94-406, § 4(1), (2), redesignated former subsec. (g) as (f) and, as so redesignated, substituted "(e)" for "(f)". Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 94-406, § 4(1), redesignated former subsec. (g) as (f).

1973—Subsec. (e). Pub. L. 93-65 extended termination date of authority provided in subsecs. (b) and (c) of this section from June 30, 1973, to June 30, 1976.

1972—Subsec. (a). Pub. L. 92-343, § 4(1), substituted "The Secretary of the Department in which the Coast Guard is operating" for "The Secretary" in the first sentence.

Subsec. (e). Pub. L. 92-343, § 4(2), struck out reference to subsec. (a) and extended the authority provided in subsecs. (b) and (c) to June 30, 1973.

Subsec. (f). Pub. L. 92-343, § 4(3), added subsec. (f).

Subsec. (g). Pub. L. 92-343, § 4(3), added subsec. (g).

1970—Pub. L. 91-278, § 1(11)(A), substituted "Leasing and hiring of quarters; rental of inadequate housing" for "Hiring of quarters for personnel" as the catchline.

Subsecs. (a) to (c). Pub. L. 91-278, § 1(11)(C), added subsecs. (a) to (c).

Subsec. (d). Pub. L. 91-278, § 1(11)(B), designated existing paragraph as subsec. (d).

Subsec. (e). Pub. L. 91-278, § 1(11)(C), added subsec. (e).

EX. ORD. NO. 11645. AUTHORITY OF SECRETARY TO PRESCRIBE CERTAIN REGULATIONS RELATING TO HOUSING

Ex. Ord. No. 11645, Feb. 8, 1972, 37 F.R. 2923, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Transportation is designated and empowered to prescribe (or, under a delegation of the Secretary's authority, the Commandant of the Coast Guard is authorized to prescribe) regulations pursuant to section 475(c) of title 14 of the United States Code, relating to the designation and leasing of rental housing, without the approval, ratification, or other action by the President.

SEC. 2. Whenever the entire Coast Guard operates as a service in the Navy, the reference to the Secretary of Transportation in section 1 of this order shall be deemed to be a reference to the Secretary of the Navy.

RICHARD NIXON.

CROSS REFERENCES

Basic allowance for quarters, see section 403 of Title 37, Pay and Allowances of the Uniformed Services.

§ 476. Contingent expenses

The Commandant may expend for contingencies of the Coast Guard a sum not to exceed $7,500 in any one fiscal year. The Commandant may authorize the Superintendent of the Academy to expend not to exceed $2,500 of this amount for contingencies of the Academy.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15k (Apr. 20, 1939, ch. 75, 53 Stat. 582).

The limitation on the amount for such contingencies is increased, and the amount is made available to the Commandant rather than solely to the Superintendent of the Academy as now prescribed by law. The authorization is to cover expenditures incident to the offices of the Commandant and the Superintendent of the Academy. The intent is that the amount authorized will be administered in a manner similar to that now employed by the Superintendent of the Academy under the authority of 14 U.S.C., § 15k. 81st Congress, House Report No. 557.

CROSS REFERENCES

Apprehension and delivery of deserters, stragglers, and prisoners, see section 508 of this title.

Auxiliary member's aircraft, expenses of operation, see section 830 of this title.

Instruction of personnel, see sections 469 to 471 of this title.

Recruiting, see section 468 of this title.

Report annually, see section 651 of this title.

§ 477. Equipment to prevent accidents

The Coast Guard may make such expenditures as are deemed appropriate for promotion and maintenance of the safety and occupational health of, and the prevention of accidents affecting, personnel of the Coast Guard, including the purchase of clothing, equipment, and other materials necessary thereto.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES

Derived from title 5, U.S.C., 1946, ed., § 118g (Aug. 2, 1946, ch. 744, § 13, 60 Stat. 809).

Because of the wide variety of tasks assigned to Coast Guard personnel it is deemed advisable to broaden this authority to the more general language as rewritten, insofar as Coast Guard personnel are concerned, thus giving complete authority to protect their health.

Said section would in no way be affected.

Inasmuch as the act cited above applies to executive departments generally, it is not scheduled for repeal by this act. 81st Congress, House Report No. 557.

§ 478. Rations or commutation therefor in money

(a) Enlisted men of the Coast Guard, civilian officers and civilian crews of vessels, and working parties in the field shall be allowed a ration or commutation thereof in money, in such amount and under limitations and regulations prescribed by the Secretary.

(b) Money for commuted rations shall be paid, under such regulations as the Secretary shall prescribe, on proper vouchers, or pay rolls, to persons entitled to receive it, or to the officers designated by the Commandant to administer the financial affairs of the messes in which such persons may be subsisted.

(c) Money paid for commuted rations to the designated officer may be deposited in general or limited depositories of public money or in any bank in which deposits are insured. Such funds shall be expended and accounted for under such regulations as the Secretary shall prescribe.

(d) Nothing contained in this section shall be construed as modifying or changing in any manner the provisions of law pertaining to subsistence allowances for enlisted men, but no ration or commutation thereof shall be allowed a person receiving a subsistence allowance.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 134, 135 (Mar. 25, 1940, ch. 71, title I, 54 Stat. 64; June 6, 1940, ch. 257, § 10, 54 Stat. 248; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 221; Feb. 7, 1942, ch. 46, title I, 56 Stat. 71; June 26, 1943, ch. 147, § 1, 57 Stat. 211; June 22, 1944, ch. 269, § 1, 58 Stat. 316; May 29, 1945, ch. 130, § 1, 59 Stat. 216; July 12, 1946, ch. 569, § 1, 60 Stat. 531; Aug. 2, 1946, ch. 756, § 31, 60 Stat. 857; July 1, 1947, ch. 186, title I, § 101, 61 Stat. 226).

The provisions of said section 134 are extended to include all persons who might be entitled to receive money for commuted rations, rather than only the officer in charge of the mess.

The last proviso of said section 135 is eliminated, because experience during the past 2 years shows that it may react detrimentally on enlisted men in time of rising food costs.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 479. Sales of ration supplies to messes

Ration supplies may be purchased by the cabin, wardroom, warrant officers', and other authorized messes and payment therefor made in cash to the commissary officer. The prices to be charged for such supplies shall not be less than the invoice prices, and the cash received from such sales shall be accounted for on the ration return and may be expended for the general mess.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 132 (Aug. 1, 1914, ch. 223, § 1, 38 Stat. 620). 81st Congress, House Report No. 557.

§ 480. Flight rations

There may be furnished to officers, enlisted men, and civilian employees, while actually engaged in flight operations, an aircraft flight ration in kind, chargeable to the proper Coast Guard appropriation, which flight ration shall be supplementary to any ration or subsistence allowance now granted to such personnel. No part of an aircraft flight ration shall be furnished without cost to any person in a travel status or to any person to whom a per diem allowance is granted in lieu of actual subsistence.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

HISTORICAL AND REVISION NOTES

Derived from the title 34, U.S.C., 1946 ed., § 909 (June 5, 1942, ch. 327, 56 Stat. 308).

Said section is applicable to Navy personnel only. Experience has shown that similar authority should be granted to the Coast Guard; it will operate to the benefit of Navy personnel stopping over at Coast Guard air stations as well as to the benefit of Coast Guard personnel stopping over at Naval air stations.

The language of said section is closely paralleled.

Said section would in no way be affected. 81st Congress, House Report No. 557.

§ 481. Payments at time of discharge for good of service

Enlisted men discharged by dishonorable discharge, bad-conduct discharge, or any other discharge for the good of the service, may, upon discharge, be paid a sum not to exceed $25. The sum paid shall be fixed by and in the discretion of the Commandant, and shall be paid only in cases where the person so discharged would otherwise be without funds to meet his immediate needs.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 197, and title 14, U.S.C., 1946 ed., § 3a (Mar. 4, 1925, ch. 536, § 10, 43 Stat. 1274; Oct. 26, 1942, ch. 623, 56 Stat. 987).

Said section 197 was made applicable to the Coast Guard by title 14, U.S.C., 1946 ed., § 3a whenever the Coast Guard is operating with the Navy. Experience has shown the advantage of having such a provision applicable to the Coast Guard at all times.

Said section would in no way be affected. 81st Congress, House Report No. 557.

§ 482. Clothing at time of discharge for good of service

Enlisted men discharged for bad conduct, undesirability, unsuitability, or inaptitude may be furnished civilian clothing, including an overcoat when necessary, the cost of such furnished clothing not to exceed $30, per person.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 148 (Dec. 23, 1943, ch. 380, title I, 57 Stat. 628).

Inasmuch as the act cited above applies equally to the Navy and Marine Corps as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 18 of this act to eliminate reference to the Coast Guard.

Changes in phraseology were made in order to adapt said section to this revision. 81st Congress, House Report No. 557.

§ 483. Right to wear uniform

When authorized by and in accordance with applicable regulations:

(a) any commissioned officer, warrant officer, or enlisted man who has served honorably in the Coast Guard during war shall when not in active service, whether or not on the retired list, be entitled to bear the official title and upon occasions of ceremony to wear the uniform of the highest rank or rating held by him during his war service, and

(b) any commissioned officer, warrant officer, or enlisted man on the retired list shall

be entitled to wear the uniform of his rank or rating.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 167b-2 (June 21, 1930, ch. 563, § 2, 46 Stat. 793).

Inasmuch as the act cited above applies equally to the Navy and Marine Corps as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 12 of this act to eliminate reference to the Coast Guard.

Subsection (b) is new to the Coast Guard, although it has been the practice for retired officers to wear the uniform when they so desire. Such authority is granted to retired officers of the Navy (see title 34, U.S.C., 1946 ed., § 389).

Changes were made in phraseology. 81st Congress, House Report No. 557.

WEARING OF UNIFORM AUTHORIZED BY PRESIDENT

Section 2 of act June 21, 1930, ch. 563, 46 Stat. 793, upon which subsec. (a) of this section was based, was amended by act July 6, 1953, ch. 180, § 2, 67 Stat. 140, to substitute "Authorized by regulations of the President" for "of ceremony".

§ 484. Protection of uniform

The provisions of law relating to the protection of the uniform of the United States Army, Navy, or Marine Corps shall apply to the protection of the uniform of the Coast Guard, in the same manner, to the same extent, and under the same conditions.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 39 (Aug. 29, 1916, ch. 418, § 1, 39 Stat. 649).

The assimilation is made in general terms, rather than by reference to the applicable section in title 10, U.S.C., 1946 ed. 81st Congress, House Report No. 557.

CROSS REFERENCES

Protection of uniform of armed forces, see section 702 of Title 18, Crimes and Criminal Procedure.

§ 485. Clothing for officers and enlisted personnel

(a) The Coast Guard may purchase uniforms, accouterments, and related equipment for sale to officer personnel and cadets of the Coast Guard.

(b) The Coast Guard may purchase uniform clothing for sale to enlisted personnel of the Coast Guard. The actual cost of the clothing thus sold to enlisted personnel may be withheld from their pay.

(Aug. 4, 1949, ch. 393, 63 Stat. 534; Aug. 3, 1950, ch. 536, § 33, 64 Stat. 408; Sept. 7, 1962, Pub. L. 87-649, § 14d(4), 76 Stat. 502.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 30 (Jan. 12, 1919, ch. 8, 40 Stat. 1054). Said section was changed to have application to the Coast Guard at all times, rather than when the Coast Guard is operating with the Navy.

Inasmuch as the act cited above applies equally to the Navy and Marine Corps as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 9 of this act to eliminate reference to the Coast Guard.

Subsection (b) is based on title 14, U.S.C., 1946, ed., § 13, and on title 33, U.S.C., 1946 ed., § 754 (July 1, 1898, ch. 346, § 1, 30 Stat. 604; July 27, 1912, ch. 255, § 2, 37 Stat. 239). Said section 13 was changed to have application to all enlisted personnel rather than to "crews of vessels in service" only. The provision of said section 754 which provided for the sale of clothing to civilian employees is eliminated as becoming obsolete.

Subsection (c) is new. Title 37, U.S.C., 1946 ed., § 110 authorizes the payment of a cash allowance in case clothing is not furnished to enlisted persons of the Coast Guard. Clearly this presumes the authority to issue clothing to enlisted persons; this section makes the authority statutory. 81st Congress, House Report No. 557.

AMENDMENTS

1962—Subsec. (c). Pub. L. 87-649 repealed subsec. (c) which permitted the Coast Guard to purchase uniform clothing for distribution to enlisted personnel or to pay such enlisted personnel a cash clothing allowance.

1950—Subsec. (c). Act Aug. 3, 1950, struck out "to" following "or" in phrase "or pay etc.".

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 486. Clothing for destitute shipwrecked persons

The Coast Guard may furnish clothing and subsistence to destitute shipwrecked persons, and the Coast Guard may reimburse, in cash or in kind, Coast Guard personnel who furnish clothing and subsistence to destitute shipwrecked persons.

(Aug. 4, 1949, ch. 393, 63 Stat. 534.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 749 (July 27, 1912, ch. 255, § 2, 37 Stat. 239; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736).

This section was enlarged to provide that the Coast Guard, as well as personnel thereof, may furnish clothing and subsistence to destitute shipwrecked persons.

Changes were made in phraseology. 81st Congress, House Report No. 557.

CROSS REFERENCES

Authorization to furnish clothing, see section 88 of this title.

§ 487. Procurement and sale of stores to officers, enlisted men, and civilian employees

Such stores as the Secretary may designate may be procured and sold to officers and enlisted men of the Coast Guard, and to the widows of such officers and enlisted men. Such designated stores may also be procured and sold to civilian officers and employees of the United States, and to such other persons as may be specifically authorized by the Secretary, at Coast Guard stations and other units beyond the continental limits of the United States or in Alaska.

(Aug. 4, 1949, ch. 393, 63 Stat. 534.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 533 (Mar. 3, 1909, ch. 255, 35 Stat. 768; Apr. 14, 1937, ch. 78, 50 Stat. 63; June 10, 1939, ch. 196, 53 Stat. 814; Jan. 23, 1942, ch. 15, 56 Stat. 13; Apr. 9, 1943, ch. 39, 57 Stat. 60).

Said section granted authority for the Secretary of the Navy to sell designated stores to officers and en-

listed men. It is deemed desirable to grant similar authority to the Secretary having control of the Coast Guard.

Said section would in no way be affected. 81st Congress, House Report No. 557.

§ 488. Advancement of public funds to personnel

The Commandant, under regulations prescribed by the Secretary, may advance public funds to personnel when required to meet expenses of officers and men detailed on emergency shore duty. Funds so advanced shall not exceed a reasonable estimate of the actual expenditures to be made and for which reimbursement is authorized by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 534.)

Historical and Revision Notes

Derived from title 34, U.S.C., 1946 ed., § 885, and title 14, U.S.C., 1946 ed., § 3a (May 22, 1928, ch. 688, 45 Stat. 712; Oct. 26, 1942, ch. 623, 56 Stat. 987).

Said section 885 was made applicable to the Coast Guard by title 14, U.S.C., 1946 ed., § 3a whenever the Coast Guard is operating with the Navy. Experience has shown the advantage of having such a provision applicable to the Coast Guard at all times.

Said section would in no way be affected. 81st Congress, House Report No. 557.

[§ 489. Repealed. Aug. 1, 1956, ch. 837, title V, § 502(8)(A), 70 Stat. 886]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 534 provided for the payment of a death gratuity to survivors of officers and enlisted men of the Regular Coast Guard. See sections 1475 to 1480 of Title 10, Armed Forces.

[§ 490. Repealed. Pub. L. 88–558, § 7(2), Aug. 31, 1964, 78 Stat. 768]

Section, acts Aug. 4, 1949, ch. 393, § 1, 63 Stat. 534; Aug. 3, 1950, ch. 536, § 26, 64 Stat. 407; Aug. 23, 1958, Pub. L. 85–738, § 1, 72 Stat. 832; Sept. 15, 1965, Pub. L. 89–185, § 2, 79 Stat. 789, provided for settlement of claims of military and civilian personnel and is now covered by sections 240 to 242 of Title 31, Money and Finance.

Effective Date of Repeal

Section 7 of Pub. L. 88–558 provided for the repeal of this section effective two years from Aug. 31, 1964.

§ 491. Medal of honor

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while a member of the Coast Guard, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force;

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 4, 1949, ch. 393, 63 Stat. 535; July 25, 1963, Pub. L. 88–77, § 4, 77 Stat. 95.)

Historical and Revision Notes

This section is new insofar as application to Coast Guard personnel in time of peace is concerned. Such awards can be made to members of the Coast Guard when the Coast Guard is operating with the Navy.

The language is parallel to that found in title 34, U.S.C., 1946 ed., § 354, providing for awards to personnel of the Navy. 81st Congress, House Report No. 557.

Amendments

1963—Pub. L. 88–77 enlarged the authority to award the medal of honor, which was limited to those cases in which persons, while in the service of the Coast Guard, distinguished themselves in action involving actual conflict with an enemy, or in the line of his profession, and without detriment to the mission of his command or to the command to which attached, to permit its award for distinguished service by members of the Coast Guard while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party, and substituted the requirement that it be of appropriate design, with ribbons and appurtenances, for the requirement that the design be the same as that of the Navy medal of honor.

§ 492. Distinguished service medal

The President may present, but not in the name of Congress, a distinguished service medal of appropriate design, with accompanying ribbon, together with a rosette or other device, to be worn in lieu thereof, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by exceptionally meritorious service to the Government in a duty of great responsibility.

(Aug. 4, 1949, ch. 393, 63 Stat. 535.)

Historical and Revision Notes

This section is new insofar as application to Coast Guard personnel in time of peace is concerned. Such awards can be made to members of the Coast Guard when the Coast Guard is operating with the Navy.

The language is parallel to that found in title 34, U.S.C., 1946 ed., § 355, providing for awards to personnel of the Navy. 81st Congress, House Report No. 557.

§ 492a. Distinguished flying cross

The President may present, but not in the name of Congress, a distinguished flying cross of appropriate design, with accompanying ribbon, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

(Added Aug. 10, 1956, ch. 1041, § 12(a), 70A Stat. 624.)

§ 493. Coast Guard medal

The President may present, but not in the name of Congress, a medal to be known as the Coast Guard medal, of appropriate design, with accompanying ribbon, together with a rosette or other device to be worn in lieu thereof, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism not involving actual conflict with an enemy.

(Aug. 4, 1949, ch. 393, 63 Stat. 535.)

Historical and Revision Notes

This section establishes a new medal to be known as the Coast Guard Medal, which is intended to be a parallel award to the Navy and Marine Corps Medal of

the Navy, to be awarded under the same circumstances as that medal is awarded to personnel of the Navy (see title 34, U.S.C., 1946 ed., § 356b). 81st Congress, House Report No. 557.

§ 494. Insignia for additional awards

No more than one medal of honor, distinguished service medal, distinguished flying cross, or one Coast Guard medal shall be issued to any one person; but for each succeeding deed or service sufficient to justify the awarding of a medal of honor, distinguished service medal, distinguished flying cross, or Coast Guard medal, the President may award a suitable emblem or insignia to be worn with the decoration and a corresponding rosette or other device.

(Aug. 4, 1949, ch. 393, 63 Stat. 535; Aug. 10, 1956, ch. 1041, § 13, 70A Stat. 624.)

HISTORICAL AND REVISION NOTES

This section is supplemental to the preceding sections dealing with the award of medals and regulates the award of additional medals of the same kind. It follows the established practice in all the armed forces (see title 34, U.S.C., 1946 ed., § 358). 81st Congress, House Report No. 557.

AMENDMENTS

1956—Act Aug. 10, 1956, included the distinguished flying cross.

[§ 495. Repealed. Pub. L. 87-526, § 1(3), July 10, 1962, 76 Stat. 141]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 535, related to additional pay for holders of medals.

ADDITIONAL REPEAL

Section was additionally repealed by Pub. L. 87-649, § 14d(5), Sept. 7, 1962, 76 Stat. 502, eff. Nov. 1, 1962.

§ 496. Time limit on award; report concerning deed

(a) No medal of honor, distinguished service medal, distinguished flying cross, Coast Guard medal, or bar, emblem, or insignia in lieu thereof may be awarded to a person unless—

(1) the award is made within five years after the date of the deed or service justifying the award;

(2) a statement setting forth the deed or distinguished service and recommending official recognition of it was made by his superior through official channels within three years from the date of that deed or termination of the service.

(b) If the Secretary determines that—

(1) a statement setting forth the deed or distinguished service and recommending official recognition of it was made by the person's superior through official channels within three years from the date of that deed or termination of the service and was supported by sufficient evidence within that time; and

(2) no award was made, because the statement was lost or through inadvertence the recommendation was not acted upon; a medal of honor, distinguished service medal, distinguished flying cross, Coast Guard medal, or bar, emblem, or insignia in lieu thereof, as the case may be, may be awarded to the person within two years after the date of that determination.

(Aug. 4, 1949, ch. 393, 63 Stat. 536; July 10, 1962, Pub. L. 87-526, § 1(5), 76 Stat. 141.)

HISTORICAL AND REVISION NOTES

This section establishes a time limit on the making of awards. It follows the established practice in all the armed forces (see title 10, U.S.C., 1946 ed., § 1409 and title 34, U.S.C., 1946 ed., § 360). 81st Congress, House Report No. 557.

AMENDMENTS

1962—Pub. L. 87-526 incorporated existing provisions in subsec. (a), included the distinguished flying cross and bar in lieu of any award in the enumeration of medals, and extended the time limit for recommending award of a medal after performance of the deed justifying the award from one to three years and added subsec. (b).

§ 497. Honorable subsequent service as condition to award

No medal of honor, distinguished service medal, distinguished flying cross, Coast Guard medal, or emblem, or insignia in lieu thereof shall be awarded or presented to any individual, or to the representative of any individual, whose entire service subsequent to the time he distinguished himself shall not in the opinion of the Commandant have been honorable.

(Aug. 4, 1949, ch. 393, 63 Stat. 536; Aug. 10, 1956, ch. 1041, § 13, 70A Stat. 624.)

HISTORICAL AND REVISION NOTES

This section makes honorable service subsequent to the act for which award is made, a condition precedent to granting the award. The Navy has the same statutory condition (see title 34, U.S.C., 1946 ed., § 362). 81st Congress, House Report No. 557.

AMENDMENTS

1956—Act Aug. 10, 1956, included the distinguished flying cross.

§ 498. Posthumous awards

In case an individual who distinguishes himself dies before the making of any award to which he may be entitled, as authorized in this chapter, the award may be made and presented within five years from the date of the act or service justifying the award to such next of kin as may have been designated by the individual, or in the absence of such designation, or if the designated person is not alive at the time of the award, or the relationship between such person and the serviceman shall have been terminated before his death, then to such representative as the President designates. In the event of a posthumous award when the award will be made to the parents of the deceased and the parents have been divorced or separated, a duplicate award may be made to each parent.

(Aug. 4, 1949, ch. 393, 63 Stat. 536.)

HISTORICAL AND REVISION NOTES

This section sets forth the conditions under which posthumous awards can be made. It is substantially the same as conditions for the Navy, but has the added provision for duplicate awards in case the parents are divorced or separated (see title 34, U.S.C., 1946 ed., § 363). 81st Congress, House Report No. 557.

§ 499. Delegation of powers to make awards; rules and regulations

The President may delegate to the Secretary, under such conditions, regulations, and limitations as he prescribes, the powers conferred upon him to make the awards designated in this chapter, and the President may make any and all rules, regulations, and orders which he deems necessary in the conferring of such awards.

(Aug. 4, 1949, ch. 393, 63 Stat. 536.)

HISTORICAL AND REVISION NOTES

This section provides for the delegation of powers to make awards to the Secretary. The Navy statute provides for such delegation to force commanders (see title 34, U.S.C., 1946 ed., § 364). 81st Congress, House Report No. 557.

§ 500. Life-saving medals

(a) The Secretary may, under regulations prescribed by him, award a Life-saving medal of gold or silver to any person, including personnel of the Coast Guard, who rescues or endeavors to rescue any other person from drowning, shipwreck, or other peril of the water in accordance with the following provisions:

(1) if such rescue or attempted rescue is made at the risk of one's own life and evidences extreme and heroic daring, the medal shall be of gold;

(2) if such rescue or attempted rescue is not sufficiently distinguished to deserve the medal of gold, but evidences the exercise of such signal exertion as to merit recognition, the medal shall be of silver.

(b) In order for a person to be eligible for the Life-saving Medals the rescue or attempted rescue must take place in waters within the United States or subject to the jurisdiction thereof, or if the rescue or attempted rescue takes place outside such waters, one or the other of the parties must be a citizen of the United States or from a vessel or aircraft owned or operated by citizens of the United States.

(c) No person shall receive more than one gold medal and one silver medal; but any person who has received or may hereafter receive a gold or silver medal and who again performs an act which would entitle him to receive another medal of the same class may be awarded, in lieu of a second medal of the same class, a gold or silver bar, as the case may be, to be worn with the medal already bestowed, and for every such additional act, an additional bar may be awarded. Medals and bars in lieu thereof, authorized by this subsection, may be awarded posthumously.

(Aug. 4, 1949, ch. 393, 63 Stat. 536; Oct. 18, 1976, Pub. L. 94-546, § 1(31), 90 Stat. 2521.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 193, 194, 195, 196 (June 20, 1874, ch. 344, § 7, 18 Stat. 127; June 18, 1878, ch. 265, § 12, 20 Stat. 165; May 4, 1882, ch. 117, § 9, 22 Stat. 57; Jan. 21, 1897, ch. 83, 29 Stat. 494).

Said sections have been rewritten so as to make the awarding of Life-saving medals turn on whether or not the United States has an interest in the heroic act, rather than on technical jurisdictional grounds. Under existing law the award of a medal could be made in any case in which the rescuer or the rescued was a citizen of the United States, or was from a vessel owned or operated by the United States regardless of where the rescue took place; and if the rescue took place within waters of the United States the award could be made to an alien.

The existing law relating to the Treasury Department Life-Saving Medal contained in title 14, U.S.C., 1946, ed., §§ 192—196, has long needed revision. The existing law is composed of a series of statutes enacted separately between 1874 and 1897, and the result has not been entirely unsatisfactory. The original statute, enacted in 1874 (title 14, U.S.C., 1946 ed., § 193), provided for Life-saving medals of the first and second class to be bestowed "upon any persons who shall hereafter endanger their own lives in saving, or endeavoring to save lives from the perils of the sea, within the United States, or upon any American vessel". The medal of the first class was confined to cases of "extreme and heroic daring" and the medal of the second class was to be awarded "in cases not sufficiently distinguished to deserve the medal of the first class" Then in 1878 another act was passed (title 14, U.S.C., 1946 ed., § 194) authorizing the bestowal of the medal of the second class "upon persons making such signal exertions in rescuing and succoring the shipwrecked, and saving persons from drowning" as, in the opinion of the Secretary of the Treasury, merited recognition. These two sections were construed by the Attorney General to be limited to the rescue of persons who were subjected to the perils of the sea in any waters of the United States in the vicinity of any lifeboat station, life-saving station, or house of refuge. And the person upon whom the medal could be bestowed was limited to members of life-saving crews. (1895) Op. Att. Gen. 124. Thereupon, in 1897, an act was passed which provided that the two earlier acts should "be construed so as to empower the Secretary of the Treasury to bestow such medals upon persons making signal exertions in rescuing and succoring the shipwrecked and saving persons from drowning in waters over which the United States has jurisdiction, whether the said persons making such exertions were or were not members of the Life-Saving Service or whether or not such exertions were made in the vicinity of a life-saving station". (Title 14, U.S.C., 1946 ed., § 196.) This act was designed to give a more liberal application to the two earlier acts, and all three were to be read as one. (1900) 23 Op. Atty. Gen. 78. However, difficult questions of interpretation have arisen because of the different jurisdictional language in the three acts. For example, title 14, U.S.C., 1946 ed., § 193, refers to rescues "within the United States", while title 14, U.S.C., 1946 ed., § 196, refers to rescues "in the waters over which the United States has jurisdiction". The need for clarification is obvious. Subsection (a) authorizes the awarding of the medal to any person, including Coast Guard personnel, who rescues or endeavors to rescue any person from drowning, shipwreck, or peril of the water. If the rescue or attempted rescue is at the risk of one's own life and evidences extreme and heroic daring, the medal shall be of gold, and if the rescue or attempted rescue is not sufficiently distinguished to deserve the gold medal, but evidences the exertion of such signal exertion as to merit recognition, the medal shall be of silver. Thus, the acts for which the medals are to be awarded are defined simply and without any geographical or jurisdictional limitations. The difficulty with the existing law is the attempt to define the required deed together with those limitations. Subsection (a) does not change existing law insofar as the type of act necessary for the medals is concerned; it merely simplifies and clarifies existing law.

Subsection (b) contains the jurisdictional limitations on the awarding of the medal and broadens, to a considerable extent, the provisions of existing law. It is the intent of this subsection to authorize the awarding of a medal in all cases where the United States has a legitimate interest in recognizing meritorious acts, such as where a United States citizen performs the act, or where a United States citizen is rescued, or

where United States waters or United States vessels or aircraft are involved. Accordingly, rescues by United States citizens anywhere in the world will be recognized. Any person, including persons not citizens of the United States, may receive medals if the rescue or attempted rescue takes place in waters within the United States or subject to its jurisdiction or, in cases of rescues outside such waters, if either the rescuer or the person rescued is from a United States vessel or aircraft, or the person rescued is a United States citizen. Thus, every case in which the United States government has an interest is provided for. A United States citizen who performs a heroic act sufficient to justify a medal in state waters, or in foreign waters, could not receive one under existing law, but could receive such award under this proposed revision. The awarding of medals should not turn on technical jurisdictional grounds; it should turn rather on the interest of the United States to recognize noble and heroic acts.

Subsection (c) dealing with the awarding of bars for additional acts, clarifies, but does not change title 14, U.S.C., 1946 ed., § 195, except that authority is granted to award medals posthumously. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-546 substituted "Secretary" for "Secretary of the Treasury".

§ 501. Replacement of medals

In those cases where a medal, or a bar, emblem, or insignia in lieu thereof, awarded pursuant to this chapter has been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded, such medal, or bar, emblem, or insignia in lieu thereof, shall be replaced without charge, or, in the discretion of the Secretary, upon condition that the Government is reimbursed for the cost thereof.

(Aug. 4, 1949, ch. 393, 63 Stat. 537.)

HISTORICAL AND REVISION NOTES

This section provides for the replacement of medals. It follows the established practice of the other armed forces, but makes an additional provision that the Secretary in his discretion may charge for the replacement medals in some circumstances. (See title 10, U.S.C., 1946 ed., § 1416 and title 34, U.S.C., 1946 ed., § 359.) 81st Congress, House Report No. 557.

§ 502. Award of other medals

Coast Guard personnel, notwithstanding the provisions of this chapter, may be awarded medals, bars, emblems, or insignia to which such personnel may be entitled under other provisions of law.

(Aug. 4, 1949, ch. 393, 63 Stat. 537.)

HISTORICAL AND REVISION NOTES

This section insures that the preceding sections are not intended to prevent Coast Guard military personnel from receiving other medals, the legion of merit, for example. 81st Congress, House Report No. 557.

MERITORIOUS SERVICE MEDAL

Medal established as an award for outstanding meritorious achievement or service to the United States, see Ex. Ord. No. 11448, Jan. 16, 1969, 34 F.R. 915, set out as a note preceding section 1121 of Title 10, Armed Forces.

§ 503. Awards and insignia for excellence in service or conduct

The Coast Guard may award trophies, badges, and cash prizes to Coast Guard personnel or groups thereof, including personnel of the reserve components thereof whether or not on active duty, for excellence in accomplishments related to Coast Guard service, to incur such expenses as may be necessary to enter such personnel in competitions, and to provide badges or buttons in recognition of special service, good conduct, and discharge under conditions other than dishonorable.

(Aug. 4, 1949, ch. 393, 63 Stat. 537.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, "Pay and Allowances" and preceding years: "not exceeding $10,000 for cash prizes for men for excellence in boatmanship, gunnery, target practice, and engineering competitions" (June 19, 1948, ch. 558, 62 Stat. 561).

This section expands the language contained in the appropriation act to include the awarding of trophies and badges, and to include in the accomplishments for which such awards may be made, excellence in any field related to Coast Guard duty. 81st Congress, House Report No. 557.

[§§ 504 to 506. Repealed. July 15, 1954, ch. 507, § 14(c)(5), 68 Stat. 481]

Sections, act Aug. 4, 1949, ch. 393, 63 Stat. 537, related to the disposition of the remains of deceased Coast Guard personnel, escorts to the place of burial for the bodies of such deceased personnel, and the issue of the national flag to be used for draping the coffin of any such deceased member. Provisions relating to the recovery, care, and disposition of the remains of deceased personnel of the uniformed services and deceased civilian personnel are now contained in section 1481 of Title 10, Armed Forces.

§ 507. Disposition of effects of decedents

All moneys, articles of value, papers, keepsakes, and other similar effects belonging to the deceased persons in the Coast Guard, not claimed by their legal heirs or next of kin, shall be deposited in safe custody, and if any such moneys, articles of value, papers, keepsakes, or other similar effects so deposited have been, or shall hereafter be, unclaimed for a period of two years from the date of the death of such person, such articles and effects shall be sold and the proceeds thereof, together with the moneys above mentioned, shall be deposited in the Treasury as miscellaneous receipts. The Secretary shall make diligent inquiry in every instance after the death of such person to ascertain the whereabouts of his heirs or next of kin, and prescribe necessary regulations to carry out the foregoing provisions. Claims may be presented hereunder at any time within five years after such moneys or proceeds have been so deposited in the Treasury, and, when supported by competent proof in any case after such deposit in the Treasury, shall be certified to Congress for consideration.

(Aug. 4, 1949, ch. 393, 63 Stat. 538.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 942 (Mar. 29, 1918, ch. 31, 40 Stat. 499).

Said section provided for the disposition of effects of deceased naval personnel. It is believed similar provisions should be made for Coast Guard personnel.

Said section would in no way be affected. 81st Congress, House Report No. 557.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5564; title 37 section 554.

§ 508. Deserters; payment of expenses incident to apprehension and delivery; penalties

(a) The Coast Guard may, pursuant to regulations prescribed by the Secretary, make such expenditures as are deemed necessary for the apprehension and delivery of deserters, stragglers, and prisoners.

(b) No person who is convicted by court martial for desertion from the Coast Guard in time of war, and as the result of such conviction is dismissed or dishonorably discharged from the Coast Guard shall afterwards be enlisted, appointed, or commissioned in any military or naval service under the United States, unless the disability resulting from desertion, as established by this section is removed by a board of commissioned officers of the Coast Guard convened for consideration of the case, and the action of the Board is approved by the Secretary; or unless he is restored to duty in time of war.

(Added May 5, 1950, ch. 169, § 16(a), 64 Stat. 149, and amended July 10, 1952, ch. 631, § 2, 66 Stat. 540.)

AMENDMENTS

1952—Subsec. (a). Act July 10, 1952, authorized reimbursement of necessary expenses to persons other than civil officers, and added stragglers and prisoners to class of offenders.

EFFECTIVE DATE

Section effective May 31, 1951, see section 5 of act May 5, 1950.

§ 509. Persons discharged as result of court-martial; allowances to

The Secretary may furnish persons discharged pursuant to the sentence of a Coast Guard court-martial suitable civilian clothing and a monetary allowance not to exceed $25 if the person discharged would not otherwise have suitable clothing or funds to meet immediate needs.

(Added May 5, 1950, ch. 169, § 16(a), 64 Stat. 149, and amended July 5, 1968, Pub. L. 90-377, § 8, 82 Stat. 288.)

AMENDMENTS

1968—Pub. L. 90-377 in the catchline substituted "Persons discharged as result of court-martial; allowances to" for "Prisoners; allowances to; transportation", and struck out the provision that persons confined in prisons in pursuance of the sentence of a Coast Guard court shall during such confinement, be allowed a reasonable sum, not to exceed $3 per month, for necessary prison expenses and the provision that the Commandant of the Coast Guard may transport to their homes or places of enlistment, as he may designate, all discharged prisoners, the expense of such transportation to be paid out of any money to the credit of prisoners when discharged.

EFFECTIVE DATE

Section effective May 31, 1951, see section 5 of act May 5, 1950.

CROSS REFERENCES

Payment for apprehension of prisoners, see section 644 of this title.

§ 510. Shore patrol duty; payment of expenses

An officer or cadet of the Coast Guard who is assigned shore patrol duty away from his vessel or other duty station may be paid his actual expenses.

(Added Aug. 10, 1956, ch. 1041, § 14(a), 70A Stat. 624.)

§ 511. Compensatory absence of military personnel at isolated aids to navigation

The Secretary, under regulations prescribed by him, may grant compensatory absence from duty to military personnel of the Coast Guard serving in lightships and at lighthouses and other isolated aids to navigation of the Coast Guard when conditions of duty result in confinement because of isolations or in long periods of continuous duty.

(Added Aug. 9, 1955, ch. 650, § 4, 69 Stat. 577, and amended Oct. 18, 1976, Pub. L. 94-546, § 1(32), 90 Stat. 2521.)

AMENDMENTS

1976—Pub. L. 94-546 substituted "Secretary" for "head of the department in which the Coast Guard is operating".

[§§ 561 to 576. Repealed. May 5, 1950, ch. 169, § 14(v), 64 Stat. 148]

Sections, act Aug. 4, 1949, ch. 393, 63 Stat. 538 to 544, related to discipline in the Coast Guard. See section 801 et seq. of Title 10, Armed Forces.

Sections 562 to 564 were amended by act Aug. 3, 1950, ch. 536, §§ 27 to 29, respectively, 64 Stat. 407.

CHAPTER 17—ADMINISTRATION

Sec.
631. Delegation of powers by the Secretary.
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[1] Section repealed without amending analysis to reflect such repeal.

Sec.
653. Employment of draftsmen and engineers.
654. Public and commercial vessels and other watercraft; sale of fuel, supplies, and services.
655. Arms and ammunition; immunity from taxation.
656. Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters.
657. Dependent school children.
658. Confidential investigative expenses.

AMENDMENTS

1974—Pub. L. 93-283, § 1(11), May 14, 1974, 88 Stat. 140, substituted in item 656 "Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters" for "Use of appropriations to restore, replace, establish, or develop facilities", and added item 658.

1972—Pub. L. 92-417, § 2(b), Aug. 29, 1972, 86 Stat. 656, substituted "Admiralty claims against the United States" for "Claims for damages occasioned by vessels" in item 646.

1970—Pub. L. 91-278, § 1(15), June 12, 1970, 84 Stat. 306, added item 657.

1963—Pub. L. 88-45, § 3, June 21, 1963, 77 Stat. 69, added item 656.

1962—Pub. L. 87-526, § 1(7), July 10, 1962, 76 Stat. 142, added item 655.

1959—Pub. L. 86-159, § 2, Aug. 14, 1959, 73 Stat. 358, added item 654.

1958—Pub. L. 85-861, § 5(1), Sept. 2, 1958, 72 Stat. 1547, struck out item 640.

1956—Act Aug. 7, 1956, ch. 1023, § 1(b), 70 Stat. 1077, substituted "Coast Guard Supply Fund." for "Coast Guard supply fund and supply account." in item 650.

CROSS REFERENCES

Procurement of property and services by Coast Guard, see section 2301 et seq. of Title 10, Armed Forces.

§ 631. Delegation of powers by the Secretary

The Secretary is authorized to confer or impose upon the Commandant any of the rights, privileges, powers, or duties, in respect to the administration of the Coast Guard, vested in or imposed upon the Secretary by this title or other provisions of law.

(Aug. 4, 1949, ch. 393, 63 Stat. 544; Oct. 18, 1976, Pub. L. 94-546, § 1(33), 90 Stat. 2521.)

HISTORICAL AND REVISION NOTES

This section authorizes the Secretary to delegate to the Commandant any of the authority granted to him in respect to the administration of the Coast Guard. Such power to delegate is granted by other statutes to the heads of many of the executive departments. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 substituted "Secretary" for "Secretary of the Treasury" wherever it appeared and substituted "Commandant" for "Commandant of the Coast Guard".

CROSS REFERENCES

Powers of Secretary, see section 92 of this title.

§ 632. Functions and powers vested in the Commandant

All powers and functions conferred upon the Coast Guard, or the Commandant, by or pursuant to this title or any other law shall, unless otherwise specifically stated, be executed by the Commandant subject to the general supervision of the Secretary. In order to execute the powers and functions vested in him, the Commandant may assign personnel of the Coast Guard to duty in the District of Columbia, elsewhere in the United States, in any territory of the United States, and in any foreign country, but such personnel shall not be assigned to duties in any foreign country without the consent of the government of that country; assign to such personnel such duties and authority as he deems necessary; and issue rules, orders, and instructions, not inconsistent with law, relating to the organization, internal administration, and personnel of the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

Based on title 5, U.S.C., 1946 ed., § 41, and on title 14, U.S.C., 1946 ed. §§ 22, 58, 91, 99, 103 (R.S. 2749; June 18, 1878, ch. 265, §§ 7, 8, 22 Stat. 164; May 4, 1882, ch. 117, § 5, 22 Stat. 57; Mar. 4, 1907, ch. 2918, 34 Stat. 1309; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Aug. 29, 1916, ch. 417, 39 Stat. 601; June 10, 1921, ch. 18, § 304, 42 Stat. 23; July 3, 1926, ch. 742, § 9, 44 Stat. 817).

Said section 91 has been divided. That part dealing with investigation of plans and inventions is covered in section 93(d) of this title. The remainder is covered in general terms. It has been rewritten in broad terms, making clear that the Commandant is granted the necessary authority to administer the Coast Guard under the Secretary, including authority to issue rules, orders, and instructions.

This section is primarily a consolidation of existing functions rather than a codification of existing laws. It does not, for the most part, grant new authority to the Coast Guard as an organization. It merely clarifies the method by which Coast Guard functions shall be administered. Under existing statutes, functions relating to the Coast Guard have been conferred upon the President, the Secretary of the Treasury, and the Commandant, and sometimes upon the Secretary of the Treasury in times of peace and the Secretary of the Navy in times of war. This revision confers some functions directly upon the Coast Guard, and this section provides for the execution of those functions by the Commandant, the military head of the organization, thereby making for consistency and uniformity. The functions are to be executed "subject to the general supervision of the Secretary". Title 14, U.S.C., 1946 ed., § 91 now grants authority to the Commandant to prescribe regulations; this is changed to the issuance of rules, orders, and instructions as the promulgation of regulations in a military organization is properly a function of the Secretary.

Changes were made in phraseology. 81st Congress, House Report No. 557.

CROSS REFERENCES

Powers of Commandant, see section 93 of this title.

§ 633. Regulations

In addition to the authority conferred by other provisions of this title the Secretary may promulgate such regulations and orders as he deems appropriate to carry out the provisions of this title or any other law applicable to the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 92, 185e (June 20, 1874, ch. 344, § 8, 18 Stat. 127; May 26, 1906, ch. 2556, § 1, 34 Stat. 200; May 24, 1939, ch. 146, § 6, 53 Stat. 756).

This section enlarges said sections to prescribe what is generally understood in a military organization,

that the promulgation of regulations is a function of the head of the Department.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 634. Officers holding certain offices

(a) Any officer, including any petty officer, may be designated by the Commandant as captain of the port or ports or adjacent high seas or waters over which the United States has jurisdiction, as the Commandant deems necessary to facilitate execution of Coast Guard duties.

(b) Commissioned officers may be appointed as United States Commissioners or United States Deputy Marshals in Alaska. Any such officer appointed as United States Commissioner in Alaska shall not be required to execute a bond for the faithful performance of his official duties as such Commissioner.

(Aug. 4, 1949, ch. 393, 63 Stat. 545; June 25, 1959, Pub. L. 86-70, § 11, 73 Stat. 143.)

Historical and Revision Notes

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 48 (June 22, 1936, ch. 705, § 4, 49 Stat. 1821; July 11, 1941, ch. 290, § 7, 55 Stat. 585).

Subsection (b) is derived from the last 6 lines of title 48, U.S.C., 1946 ed., § 1460 (July 31, 1939, ch. 399, 53 Stat. 1143). An additional provision is added waiving the requirement of a performance bond inasmuch as Coast Guard officers appointed as United States commissioners or marshals are not custodians of funds, and in any case their oath as a commissioned officer appears to be sufficient to insure faithful performance of duty.

Changes were made in phraseology. 81st Congress, House Report No. 557.

Amendments

1959—Subsec. (b). Pub. L. 86-70 substituted "in Alaska" for "in and for the territory of Alaska" in two instances.

Change of Name

References to United States commissioners to be deemed references to United States magistrates, see Pub. L. 90-578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118, which provided that, within each district, references in previously enacted statutes and previously promulgated rules and regulations to United States commissioners are to be deemed within such district, references to United States magistrates duly appointed under section 631 of Title 28, Judiciary and Judicial Procedure, as soon as the first United States magistrate assumes office within that district or on Oct. 17, 1971, whichever is earlier. See Applicable Law note under section 631 of title 28.

§ 635. Oaths required for boards

The members of a retiring board, selection board, examining board, and any other board authorized to be assembled pursuant to this title shall be sworn to discharge their duties honestly and impartially, the oath to be administered to the members by the President or other presiding officer of the board, and to him by the junior member or recorder.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., § 170 (Apr. 12, 1902, ch. 501, § 5, 32 Stat. 100).

Said section has been divided. That part relating to oaths is covered in this section. The remainder is covered in section 425 of this title.

Said section is enlarged to include the oaths required for all boards, rather than to cover retiring boards only. 81st Congress, House Report No. 557.

Cross References

Oath of enlistment, see section 502 of Title 10, Armed Forces.

§ 636. Administration of oaths.

(a) Such commissioned and warrant officers of the Coast Guard as may be designated by the Commandant may, pursuant to rules prescribed by the Commandant, exercise the general powers of a notary public in the administration of oaths for the following purposes:

(1) execution, acknowledgment, and attestation of instruments and papers, oaths of allegiance in connection with recruiting, oaths in connection with courts and boards, and all other notarial acts in connection with the proper execution of Coast Guard functions;

(2) execution, acknowledgment, and attestation of instruments and papers, and all other notarial acts in time of war or national emergency; and

(3) execution, acknowledgment, and attestation of instruments and papers, and all other notarial acts in Alaska and places beyond the continental limits of the United States where the Coast Guard is serving.

(b) No fee of any character shall be charged by any commissioned or warrant officer for performing notarial acts. The signature and indication of grade of any commissioned or warrant officer performing any notarial act shall be prima facie evidence of his authority.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., §§ 26, 27 (Apr. 16, 1908, ch. 145, § 12, 35 Stat. 63; June 5, 1920, ch. 235, § 1, 41 Stat. 880).

Said sections are rewritten, the provisions concerning oaths being broadened to conform more closely to law applicable to officers of the Navy (see title 34, U.S.C., 1946 ed., § 217a). 81st Congress, House Report No. 557.

§ 637. Stopping vessels; immunity of Coast Guard officer

(a) Whenever any vessel liable to seizure or examination does not bring-to, on being ordered to do so or on being chased by any Coast Guard vessel or aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for vessels or aircraft of the Coast Guard, the person in command or in charge of such Coast Guard vessel or such Coast Guard aircraft may, after a gun has been fired by the Coast Guard vessel or aircraft as a warning signal, fire at or into such vessel which does not bring-to.

(b) The person in command of such Coast Guard vessel or such Coast Guard aircraft and all persons acting by or under his direction shall be indemnified from any penalties or actions for damages for so doing. If any person is killed or wounded by such firing, and the person in command of the Coast Guard vessel or aircraft or any person acting pursuant to his orders is prosecuted or arrested therefor, he shall be forthwith admitted to bail.

(Aug. 4, 1949, ch. 393, 63 Stat. 546.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 68 (R.S. 2765).

Aircraft are included within the protective terms of this section which permits aircraft to stop vessels but makes no provision for stopping aircraft.

Changes were made in phraseology. 81st Congress, House Report No. 557.

CROSS REFERENCES

Claims for damages—
Military and civilian personnel, see sections 240 to 242 of Title 31, Money and Finance.
Property of United States, see section 647 of this title.
Settlement of claims incident to activities of Coast Guard, see section 2733 of Title 10, Armed Forces.
Vessels, adjustment by Secretary, see section 646 of this title.
Searches and seizures, see section 89 of this title.

§ 638. Coast Guard ensigns and pennants

(a) Coast Guard vessels and aircraft shall be distinguished from other vessels and aircraft by an ensign, pennant, or other identifying insignia of such design as prescribed by the Secretary. Such ensign, pennant, or other identifying insignia shall be displayed in accordance with regulations prescribed by the Secretary.

(b) No vessel or aircraft without authority shall carry, hoist, or display any ensign, pennant, or other identifying insignia prescribed for, or intended to resemble, any ensign, pennant, or other identifying insignia prescribed for Coast Guard vessels or aircraft. Every person violating this subsection shall be fined not more than $5,000, or imprisoned for not more than two years, or both.

(Aug. 4, 1949, ch. 393, 63 Stat. 546.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 64 (R.S. 2764; Aug. 5, 1935, ch. 438, title III, § 308, 49 Stat. 528).

Aircraft are included within the provisions of this section.

The Secretary rather than the President is given the authority to design ensigns and pennants.

Unauthorized display of such insignia is made illegal anywhere rather than only "within the jurisdiction of the United States".

The language is broadened to include "any person violating this section"; existing law applies to masters of offending vessels only. 81st Congress, House Report No. 557.

CROSS REFERENCES

Reserve and Auxiliary flags and pennants, see section 891 of this title.

§ 639. Penalty for unauthorized use of words "Coast Guard"

No individual, association, partnership, or corporation shall, without authority of the Commandant, use the combination of letters "USCG" or "USCGR", the words "Coast Guard," "United States Coast Guard," "Coast Guard Reserve," "United States Coast Guard Reserve," "Coast Guard Auxiliary," "United States Coast Guard Auxiliary," "Lighthouse Service," "Life Saving Service," or any combination or variation of such letters or words alone or with other letters or words, as the name under which he or it shall do business, for the purpose of trade, or by way of advertisement to induce the effect of leading the public to believe that any such individual, association, partnership, or corporation has any connection with the Coast Guard. No individual, association, partnership, or corporation shall falsely advertise, or otherwise represent falsely by any device whatsoever, that any project or business in which he or it is engaged, or product which he or it manufactures, deals in, or sells, has been in any way endorsed, authorized, or approved by the Coast Guard. Every person violating this section shall be fined not more than $1,000, or imprisoned not more than one year, or both.

(Aug. 4, 1949, ch. 393, 63 Stat. 546; Aug. 3, 1950, ch. 536, § 30, 64 Stat. 408.)

HISTORICAL AND REVISION NOTES

This section makes the unauthorized use of the words "Coast Guard" or any derivative thereof, a crime. This is believed to be a desirable prohibition in view of the many commercial organizations which are manufacturing equipment approved by the Coast Guard and selling same to vessels in the United States. 81st Congress, House Report No. 557.

AMENDMENTS

1950—Act Aug. 3, 1950, made it possible for the Commandant to grant authority to private business organizations to use terms or designations otherwise prohibited by this section.

[§ 640. Repealed. Pub. L. 85–861, § 36A, C(1), Sept. 2, 1958, 72 Stat. 1569, 1571]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 546; June 15, 1955, ch. 142, 69 Stat. 134, related to the interchange of supplies between the Armed Forces and is now covered by section 2571 of Title 10, Armed Forces.

§ 641. Disposal of certain material

(a) The Commandant subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended, may dispose of, with or without charge, to the sea-scout service of the Boy Scouts of America, to any incorporated unit of the Coast Guard Auxiliary, and to any public body or private organization not organized for profit having an interest therein for historical or other special reasons, such obsolete or other material as may not be needed for the Coast Guard.

(b) The Commandant may, under regulations prescribed by the Secretary, sell apparatus or equipment manufactured by or in use in the Coast Guard, which is not readily procurable in the open market. The money received from such sale shall be deposited in the Treasury to the credit of the current appropriation from which purchase of similar apparatus or equipment is authorized.

(Aug. 4, 1949, ch. 393, 63 Stat. 547; Oct. 31, 1951, ch. 654, § 2(11), 65 Stat. 707.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 43a (Apr. 10, 1936, ch. 179, 49 Stat. 1195). The authorization is enlarged to include any public body or private organization not organized for profit, and the authority to make disposal is placed in the Commandant rather than in the Secretary.

Subsection (b) is based on title 33, U.S.C., 1946 ed., § 752a (May 22, 1926, ch. 371, § 5, 44 Stat. 626).

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377. Provisions of that act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of title 40, and Tables volume.

AMENDMENTS

1951—Subsec. (a). Act Oct. 31, 1951, inserted the reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, and substituted "incorporated" in lieu of "regularly organized flotilla or other organized".

§ 642. Deposit of damage payments

Whenever an aid to navigation or other property belonging to the Coast Guard is damaged or destroyed by a private person, and such private person or his agent shall pay to the satisfaction of the proper official of the Coast Guard for the cost of repair or replacement of such property, the Commandant may accept and deposit such payments, through proper officers of the Fiscal Service, Treasury Department, in special deposit accounts in the Treasury, for payment therefrom to the person or persons repairing or replacing the damaged property and refundment of amounts collected in excess of the cost of the repairs or replacements concerned. In the event that repair or replacement of the damaged property is effected by the Coast Guard, the appropriations bearing the cost thereof and current at the time collection is made shall be reimbursed from the special deposit account.

(Aug. 4, 1949, ch. 393, 63 Stat. 547.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 721a (Aug. 16, 1937, ch. 665, § 2, 50 Stat. 667).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 643. Rewards for apprehension of persons interfering with aids to navigation

The Coast Guard may offer and pay rewards for the apprehension and conviction, or for information helpful therein, of persons found interfering in violation of law with aids to navigation maintained by the Coast Guard; or for information leading to the discovery of missing Coast Guard property or to recovery thereof.

(Aug. 4, 1949, ch. 393, 63 Stat. 547.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 50c (Aug. 2, 1946, ch. 756, § 32, 60 Stat. 857).

Section is enlarged to provide for payment of rewards for information leading to the discovery or recovery of missing Coast Guard property. 81st Congress, House Report No. 557.

§ 644. Payment for the apprehension of stragglers

The Coast Guard may offer and pay rewards for the apprehension and delivery of deserters, stragglers, and prisoners.

(Aug. 4, 1949, ch. 393, 63 Stat. 547.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 147 (May 26, 1906, ch. 2556, § 5, 34 Stat. 200).

Said section has been divided. That part relating to rewards for the apprehension of deserters is placed in this section. That part relating to the acceptance of convicted deserters in the armed forces is placed in section 575 of this title. The first sentence of said section is eliminated inasmuch as it is believed that commanding officers in the Coast Guard are charged with the duty of apprehending deserters without special statutory authority therefor.

The limitation as to amount that could be offered is removed.

The provision concerning money due the deserter is eliminated. 81st Congress, House Report No. 557.

CROSS REFERENCES

Deserters, payment of expenses incident to apprehension and delivery, see section 508 of this title.

[§ 645. Repealed. Pub. L. 90–525, § 2, Sept. 26, 1968, 82 Stat. 877]

Section, acts Aug. 4, 1949, ch. 393, § 1, 63 Stat. 547; Sept. 3, 1954, ch. 1263, § 34, 68 Stat. 1239; Aug. 23, 1958, Pub. L. 85–738, §§ 4, 5, 72 Stat. 833, provided for settlement of claims incident to activities of the Coast Guard and is now covered by section 2733 of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Section 2 of Pub. L. 90–525 provided that: "Section 645 of title 14 of the United States Code [this section] is repealed two years after the effective date of this Act [Sept. 26, 1968]."

§ 646. Admiralty claims against the United States

(a) The Secretary may consider, ascertain, adjust, determine, compromise, or settle, and pay in an amount not more than $100,000, an admiralty claim against the United States for—

(1) damage caused by a vessel in the Coast Guard service or by other property under the jurisdiction of the Department in which the Coast Guard is operating;

(2) compensation for towage and salvage services, including contract salvage, rendered to a vessel in the Coast Guard service or to other property under the jurisdiction of the Department in which the Coast Guard is operating; or

(3) damage caused by a maritime tort committed by an agent or employee of the Department in which the Coast Guard is operating or by property under the jurisdiction of that Department.

(b) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other law.

(c) If a claim under this section is settled or compromised for more than $100,000, the Secretary shall certify it to Congress.

(Aug. 4, 1949, ch. 393, 63 Stat. 548; June 29, 1960, Pub. L. 86–533, § 1(3)(A), 74 Stat. 245; Aug. 29, 1972, Pub. L. 92–417, § 2(a), 86 Stat. 655.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 71 (June 15, 1936, ch. 550, 49 Stat. 1514; July 1, 1944, ch. 373, title VII, § 711, 58 Stat. 714; Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1051).

This section closely parallels title 46, U.S.C., 1946 ed., §§ 797, 798, which authorizes the Secretary of the

Navy to negotiate amicable settlement of claims against the United States arising out of the operation of Naval vessels. It grants similar authority to the Secretary of the Treasury in relation to vessels in the Coast Guard service, and the limiting amount is reduced from $1,000,000 to $25,000. It is believed that this section will work to the benefit of the Government by reducing civil litigation and the number of claims which must presently be certified to Congress for appropriations in order to make settlement. It will greatly expedite the settlement of just claims and should result in a considerable over-all savings to the Government. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-417 incorporated in part the first sentence of former subsec. (a) in the text preceding par. (1), substituted "Secretary" for "Secretary of the Treasury", added provisions authorizing payments up to $100,000, deleted second, third, and fourth sentences providing that provisions of this section were supplementary to other provisions, that claims in excess of $3,000 accrued prior to Sept. 8, 1939 would not be considered, and that payments be made out of Coast Guard appropriations, and added pars. (1) to (3).

Subsec. (b). Pub. L. 92-417 incorporated in part the first sentence of former subsec. (a).

Subsec. (c). Pub. L. 92-417 incorporated provisions of the last sentence of former subsec. (a) and substituted "100,000" for "25,000".

1960—Pub. L. 86-533 repealed subsec. (b) which required the Secretary of the Treasury to report to the Congress the payment of claims determined, compromised, settled, or paid.

CROSS REFERENCES

Aircraft deemed public aircraft, see section 828 of this title.

Vessel deemed public vessel, see section 827 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 827, 828 of this title.

§ 647. Claims for damage to property of the United States

The Secretary may consider, ascertain, adjust, determine, compromise, or settle claims for damage cognizable in admiralty in a district court of the United States and all claims for damage caused by a vessel or floating object, to property of the United States under the jurisdiction of the Coast Guard or property for which the Coast Guard may have assumed, by contract or otherwise, any obligation to respond for damage thereto. The Secretary is further authorized to receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as herein authorized and, upon acceptance of such payment but not until then, such determination, settlement, or compromise of such claim shall be final and conclusive for all purposes, any law to the contrary notwithstanding. All such payments shall be deposited in the Treasury of the United States as miscellaneous receipts. The Secretary is further authorized to execute on behalf of the United States and to deliver in exchange for such payment a full release of such claim. This section, as respects the determination, compromise, settlement, and payment of claims, shall be supplementary to, and not in lieu of, all other provisions of law authorizing the determination, compromise, or settlement of claims for damage to property hereinabove described. No settlement or compromise where there is involved a payment in the net amount of over $25,000 is authorized by this section.

(Aug. 4, 1949, ch. 393, 63 Stat. 549; June 29, 1960, Pub. L. 86-533, § 1(3)(B), 74 Stat. 245; Oct. 18, 1976, Pub. L. 94-546, § 1(34), 90 Stat. 2521.)

HISTORICAL AND REVISION NOTES

This section closely parallels title 34, U.S.C., 1946 ed., §§ 600a, 600b, which authorize the Secretary of the Navy to negotiate amicable settlements of affirmative claims of the United States for damage to Government property. Experience gained by the Navy since enactment of title 34, U.S.C., 1946 ed., §§ 600a-600d, indicates that such amicable settlement reacts to the benefit of the Government in many cases. The provisions of this section would complement those of section 646 of this title and the two sections together would permit the Coast Guard to negotiate the settlement of claims arising out of Coast Guard floating operations, both for and against the United States. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94-546 deleted subsection designation "(a)" from preceding first sentence and substituted "Secretary" for "Secretary of the Treasury" wherever it appeared, "deposited in the Treasury of the United States" for "covered into the Treasury of the United States", and "authorized by this section" for "authorized by this title".

1960—Pub. L. 86-533 repealed subsec. (b) which required the Secretary of the Treasury to report to the Congress with respect to payments received by the United States in excess of $3,000.

§ 648. Accounting for industrial work

The Secretary may prescribe regulations governing accounting for industrial work, including charges for overhead for civilian labor and for maintenance of industrial plant and equipment, performed at the Coast Guard Yard or such similar Coast Guard industrial establishments as he may designate. Any orders placed for such industrial work shall be covered by a transfer or advance of funds to cover the estimated cost thereof, and shall be credited to such accounts as may be necessary and established by the Secretary to carry out the provisions of this section. Accounts so established shall be available for materials, supplies, or equipment, and civilian labor, including overhead and maintenance, required in performing the work ordered. Upon completion of an order an adjustment will be made to make the amount transferred or advanced equal to the actual cost as computed in accordance with the accounting regulations prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 549.)

HISTORICAL AND REVISION NOTES

This section is intended to eliminate a very cumbersome and inefficient method of accounting for industrial jobs at the Coast Guard Yard and other shore establishments where industrial work may be undertaken. Under existing law several accounts must be kept current for each job in progress. Under this statute the working fund would be available for all types of expenditures in connection with a job and the breakdown into separate accounts could be done after the job is complete. The other armed forces have provisions of law which permit a working fund similar to

the one provided by this section. 81st Congress, House Report No. 557.

§ 649. Supplies and equipment from stock

Supplies and equipment for special work of the Coast Guard may be furnished from general stock and the applicable appropriation reimbursed therefor from the respective appropriations for such special work.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

Historical and Revision Notes

Based on title 33, U.S.C., 1934 ed., § 726 (Mar. 4, 1913, ch. 168, 37 Stat. 1018).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 650. Coast Guard Supply Fund

(a) A Coast Guard Supply Fund is authorized. The Secretary may prescribe regulations for designating the classification of materials to be stocked. In such regulations, whenever the fund is extended to include items not previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for the materials so transferred, the fund shall be charged with the cost of materials purchased or otherwise acquired. The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.

(b) Obligations may, without regard to fiscal year limitations, be incurred against anticipated reimbursement to the Coast Guard Supply Fund in such amount and for such period, as the Secretary, with approval of the Director of the Office of Management and Budget, may determine to be necessary to maintain stock levels consistently with planned operations for the next year.

(Aug. 4, 1949, ch. 393, 63 Stat. 550; Aug. 7, 1956, ch. 1023, § 1(a), 70 Stat. 1077; June 12, 1970, Pub. L. 91-278, § 1(13), 84 Stat. 306; Oct. 18, 1976, Pub. L. 94-546, § 1(35), 90 Stat. 2521.)

Historical and Revision Notes

A Coast Guard supply fund was established by the Naval Appropriation Act for fiscal year 1943 approved February 7, 1942, 56 Stat. 73. Experience has clearly shown that it is advantageous to the Government to have permanent authorization for such a fund. 81st Congress, House Report No. 557.

Amendments

1976—Subsec. (b). Pub. L. 94-546 substituted "Office of Management and Budget" for "Bureau of the Budget".

1970—Subsec. (a). Pub. L. 91-278, § 1(13)(A), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 91-278, § 1(13)(B), added subsec. (b).

1956—Act Aug. 7, 1956, substituted "Coast Guard Supply Fund" for "Coast Guard supply fund and supply account" in the catchline, eliminated provisions calling for mandatory increase of the Fund by the value of commissary provisions and uniform clothing on hand on July 1, 1949, and inserted the provisions permitting the Secretary to prescribe regulations for designating the classification of materials to be stocked and for increasing the existing capital of the Fund.

§ 651. Annual report

In April of each year, the Commandant, through the Secretary, shall report to Congress the operations and expenditures of the Coast Guard during the preceding fiscal year.

(Aug. 4, 1949, ch. 393, 63 Stat. 550; Oct. 18, 1976, Pub. L. 94-546, § 1(36), 90 Stat. 2522.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., §§ 36, 37 (Oct. 2, 1888, ch. 1069, 25 Stat. 511; Jan. 28, 1915, ch. 20, § 5, 38 Stat. 802).

Changes were made in phraseology. 81st Congress, House Report No. 557.

Amendments

1976—Pub. L. 94-546 substituted "April" for "January".

§ 652. Removing restrictions

Any law removing for the duration of a war or national emergency proclaimed by the President any restriction contained in any then-existing law as applied to the Navy, including, but not limited to, restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel, shall, in the same manner and to the same extent, remove such restrictions as applied to the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

Historical and Revision Notes

This section is new and provides that any law removing for the duration of a war or national emergency any restriction contained in any then-existing law as applied to the Navy shall operate in the same manner to remove such restrictions as applied to the Coast Guard. Included are restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel. This provision is designed to enable the Coast Guard to operate as efficiently as the Navy Department in time of war or during a national emergency and would permit the Coast Guard more effectively to maintain itself in a state of military readiness during periods of emergency. Since the Coast Guard operates as part of the Navy in time of war, it is essential that its operations be as flexible and as efficient as those of the Department of which it is to be a part. This section would prevent inadvertent failures specifically to mention the Coast Guard in legislation of the type described in this section from hindering service operations. 81st Congress, House Report No. 557.

§ 653. Employment of draftsmen and engineers

The Coast Guard may employ temporarily, at the seat of government, draftsmen and engineers for the preparation of plans and specifications for vessels, lighthouses, aids to navigation, and other projects for the Coast Guard that may be authorized or appropriated for by Congress, to be paid from the appropriations applicable to such projects.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

Historical and Revision Notes

Based on title 33, U.S.C., 1946 ed., § 716 (June 17, 1910, ch. 301, § 9, 36 Stat. 538; July 27, 1939, ch. 388, § 1, 53 Stat. 1130).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 654. Public and commercial vessels and other watercraft; sale of fuel, supplies, and services

The Secretary under such regulations as he may prescribe, may sell to public and commercial vessels and other watercraft, such fuel, supplies and furnish such services as may be required to meet the necessities of the vessel or watercraft if such vessel or watercraft is unable—

(1) to procure the fuel, supplies, or services from other sources at its present location; and

(2) to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safe condition of the property carried aboard.

Sales under this section shall be at such prices as the Secretary considers reasonable. Payment will be made on a cash basis or on such other basis as will reasonably assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.

(Added Pub. L. 86-159, § 1, Aug. 14, 1959, 73 Stat. 357, and amended Pub. L. 89-444, § 1(22), June 9, 1966, 80 Stat. 197.)

Amendments

1966—Pub. L. 89-444 inserted "Public and commercial vessels and other watercraft; sale of fuel, supplies, and services" as the section catchline.

§ 655. Arms and ammunition; immunity from taxation

No tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for the Coast Guard.

(Added Pub. L. 87-526, § 1(6), July 10, 1962, 76 Stat. 142, and amended Pub. L. 94-546, § 1(37), Oct. 18, 1976, 90 Stat. 2522.)

Amendments

1976—Pub. L. 94-546 struck out "United States" preceding "Coast Guard".

§ 656. Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters

(a) Funds appropriated to or for the use of the Coast Guard for acquisition, construction, and improvement of facilities, for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters shall remain available until expended.

(b) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to restore, repair, or replace facilities that have been damaged or destroyed, including acquisition of sites.

(c) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to acquire, construct, convert, extend, and install at Coast Guard installations and facilities, needed permanent or temporary public works, including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters, costing not more than $200,000 for any one project.

(Added Pub. L. 88-45, § 2, June 21, 1963, 77 Stat. 68, and amended Pub. L. 93-283, § 1(9), May 14, 1974, 88 Stat. 140.)

Amendments

1974—Pub. L. 93-283, § 1(9)(A), substituted in the catchline "Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters", for "Use of appropriations to restore, replace, establish, or develop facilities".

Subsec. (a). Pub. L. 93-283, § 1(9)(B), (C), added subsec. (a) and redesignated former subsec. (a) as (b).

Subsecs. (b), (c). Pub. L. 93-283, § 1(9)(b), redesignated former subsecs. (a) and (b) as (b) and (c), respectively.

Funds Appropriated to or for Use of Coast Guard After Fiscal Year 1977; Limitation

Pub. L. 94-406, § 5, Sept. 10, 1976, 90 Stat. 1236, provided that: "After fiscal year 1977, funds may not be appropriated to or for the use of the Coast Guard (1) for the operation and maintenance of the Coast Guard; (2) for acquisition, construction, rebuilding, or improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related thereto; (3) for alteration of obstructive bridges; or (4) for research, development, tests, or evaluation related to any of the above, unless the appropriation of such funds has been authorized by legislation enacted after December 31, 1976."

§ 657. Dependent school children

(a) Except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), the Secretary may provide, out of funds appropriated to or for the use of the Coast Guard, for the primary and secondary schooling of dependents of Coast Guard personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of those dependents.

(b) Whenever the Secretary, under such regulations as he may prescribe, determines that schools located in the same area in which a Coast Guard facility is located are not accessible by public means of transportation on a regular basis, he may provide, out of funds appropriated to or for the use of the Coast Guard, for the transportation of dependents of Coast Guard personnel between the schools serving the area and the Coast Guard facility.

(Added Pub. L. 91-278, § 1(14), June 12, 1970, 84 Stat. 306, and amended Pub. L. 93-430, § 5, Oct. 1, 1974, 88 Stat. 1182.)

References in Text

The act of September 30, 1950, referred to in subsec. (a), is popularly known as the Educational Agencies Financial Aid Act, and is classified to chapter 13 (§ 236 et seq.) of Title 20, Education.

AMENDMENTS

1974—Pub. L. 93-430 struck out "transportation of" from the section catchline, designated existing provisions as subsec. (b), and added subsec. (a).

§ 658. Confidential investigative expenses

Not more than $15,000 per annum appropriated for necessary expenses for the operation of the Coast Guard shall be available for investigative expenses of a confidential character, to be expended on the approval or authority of the Commandant and payment to be made on his certificate of necessity for confidential purposes, and his determination shall be final and conclusive upon the accounting officers of the Government.

(Added Pub. L. 93-283, § 1(10), May 14, 1974, 88 Stat. 140.)

PART II—COAST GUARD RESERVE AND AUXILIARY

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AMENDMENTS

1950—Act Aug. 3, 1950, ch. 536, § 34, 64 Stat. 408, substituted "Sec." for "Page".

CHAPTER 21—COAST GUARD RESERVE

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[1] Sections repealed without amending analysis to reflect such repeal.

AMENDMENTS

1974—Pub. L. 93-283, § 1(14), May 14, 1974, 88 Stat. 141, added items 765 and 796 to 798.

1972—Pub. L. 92-479, § 2, Oct. 9, 1972, 86 Stat. 795, added item 764.

1962—Pub. L. 87-704, § 1(b), Sept. 27, 1962, 76 Stat. 633, added item 763.

Pub. L. 87-649, § 7(d), Sept. 7, 1962, 76 Stat. 495, substituted "Benefits" for "Pay, allowances, and other benefits" in item 755.

1960—Pub. L. 86-559, § 2(4), June 30, 1960, 74 Stat. 281 added item 787a.

1958—Pub. L. 85-861, § 5(3), Sept. 2, 1958, 72 Stat. 1555, added heading "Commissioned Officers" and items 770 to 795.

1956—Act Aug. 10, 1956, ch. 1041, §§ 15(b), 16(b), 70A Stat. 625, 626, inserted items 751a, 752a, 753a, 758a, and 759a.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 sections 1005, 1006.

[§ 751. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 551; Aug. 3, 1950, ch. 536, § 31, 64 Stat. 408, related to the purpose and administration of the Reserve.

EFFECTIVE DATE OF REPEAL

Repeal of section effective on the first day of the sixth month following July 1952.

§ 751a. Organization

The Coast Guard Reserve is the reserve component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Coast Guard. The departments and offices of the Coast Guard shall hold the same relation and responsibility to the Coast Guard Reserve as they do to the Regular Establishment.

(Added Aug. 10, 1956, ch. 1041, § 15(a), 70A Stat. 624.)

WOMEN'S BRANCH OF THE COAST GUARD RESERVE

Section 3 of Pub. L. 93-174, Dec. 5, 1973, 87 Stat. 692, provided that: "Effective upon enactment of this Act [Dec. 5, 1973], all members of the women's branch of

the Coast Guard Reserve who were serving on active or inactive duty on the day before enactment shall become members of the Coast Guard Reserve without loss of grade, rate, date of rank, or other benefits earned by their prior service."

[§ 752. Repealed. July 9, 1952, ch. 608, part VIII, §803, 66 Stat. 505]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to eligibility.

EFFECTIVE DATE OF REPEAL

Repeal of section effective on the first day of the sixth month following July 1952.

§ 752a. Authorized strength

Whenever the authorized strength of the Coast Guard Reserve is not prescribed by law, it shall be prescribed by the President. Subject to the authorized strength of the Coast Guard Reserve, the authorized strength in members in each grade is that which the Secretary determines to be necessary to provide for mobilization requirements. The Secretary shall review those determinations at least once each year and revise them if he considers it necessary. No member of the Coast Guard Reserve may be reduced in his reserve grade without his consent as a result of such a determination.

(Added Aug. 10, 1956, ch. 1041, § 15(a), 70A Stat. 625.)

[§ 753. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to term of appointment, duty, and training.

EFFECTIVE DATE OF REPEAL

Repeal of section effective on the first day of the sixth month following July 1952.

§ 753a. Coast Guard Reserve Policy Board

A Coast Guard Reserve Policy Board shall be convened at least once a year at the seat of government to consider, recommend, and report to the Secretary on reserve policy matters. At least half of the members of the Board must be officers of the Coast Guard Reserve.

(Added Aug. 10, 1956, ch. 1041, § 15(a), 70A Stat. 625.)

§ 754. Grades and ratings; military authority

The grades and ratings, including cadets, in the Reserve shall be the various grades and ratings not above rear admiral, prescribed by law for the Coast Guard. Members of the Reserve, while engaged on active duty, shall be vested with the same power, authority, rights, and privileges in the execution of their duty and shall wear the same uniforms as members of the regular Coast Guard of corresponding grades or ratings.

(Aug. 4, 1949, ch. 393, 63 Stat. 551.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 303, 305, (Feb. 19, 1941, ch. 8, title II, §§ 203, 205, 55 Stat. 11; July 11, 1941, ch. 290, § 10(3), 55 Stat. 587; June 6, 1942, ch. 385, § 1(2), 56 Stat. 329).

Section 305 of title 14, U.S.C., 1946 ed., has been divided. That part relating to power, authority, rights, and privileges of members of the Reserve is placed in this section. The remainder is placed in section 753 of this title.

The restriction on grade contained in title 14, U.S.C., 1946 ed., § 303, is raised from captain to rear admiral. The restriction on initial appointment is eliminated entirely so that initial appointments in the Reserve may be made in the grade of rear admiral or below.

The phrase "in the execution of their duties" is added to that part which defines the rights and privileges of reserve officers.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 755. Benefits

(a) Personnel of the Reserve when engaged on active duty, on active duty while undergoing training, on training duty with pay, or when engaged in authorized travel to or from such duty, shall receive the same benefits as provided for personnel of the Naval Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to members of the regular Coast Guard.

(b) The provisions of chapter 13 of this title, except for section 461, apply to members of the Reserve under the same conditions and limitations as are applicable to officers and enlisted men of the Regular Coast Guard.

(c) Members of the Reserve who suffer sickness, disease, disability, or death shall be entitled to the same benefits as prescribed by law for members of the Naval Reserve who suffer sickness, disease, disability, or death under similar conditions.

(d) Members of the Reserve, when on active duty or when retired for disability, shall be entitled to the benefits of section 253(a) of title 42, and, when on active duty other than training duty or when retired for disability, shall be entitled to the benefits of section 253(b) of title 42.

(e) Members of the Coast Guard Reserve, except enlisted members retiring on the basis of years of active service, shall be entitled to the same retirement benefits as prescribed by law for personnel of the Naval Reserve, and whenever any such law confers authority upon the Secretary of the Navy, similar authority shall be deemed given to the Secretary of Transportation to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. Enlisted members of the Coast Guard Reserve requesting retirement on the basis of years of active service shall be entitled to the same retirement rights, benefits and privileges as prescribed by law for enlisted members of the Regular Coast Guard.

(f) Any former member of the Coast Guard Reserve, other than a temporary member, honorably discharged or discharged under honorable conditions from the Coast Guard Reserve after February 18, 1941, and before January 1, 1949, who at the time of his discharge had completed at least thirty years of active service in the Armed Forces other than active duty for training, or who had completed at least twenty years of active service other than active duty for training the last ten of which he served in the eleven-year period immediately preceding his discharge, shall upon his request be placed

on the retired list of the Coast Guard Reserve and shall be entitled to receive the same retired pay, only after being placed on the retired list, that he would be entitled to receive had he been retired as a member of the Naval Reserve under the Naval Reserve Act of 1938 instead of being discharged.

(Aug. 4, 1949, ch. 393, 63 Stat. 551; Aug. 3, 1950, ch. 536, § 32, 64 Stat. 408; Aug. 16, 1957, Pub. L. 85-149, 71 Stat. 369; Sept. 7, 1962, Pub. L. 87-649, § 7(a), 76 Stat. 495; Sept. 25, 1965, Pub. L. 89-200, 79 Stat. 834; June 9, 1966, Pub. L. 89-444, § 1(23), 80 Stat. 197; Dec. 5, 1973, Pub. L. 93-174, § 2(1), 87 Stat. 692.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 306 (Feb. 19, 1941, ch. 8, title II, § 206, 55 Stat. 11; July 11, 1941, ch. 290, § 10(4), 55 Stat. 588; June 6, 1942, ch. 385, § 1(3), 56 Stat. 329; Nov. 23, 1942, ch. 639, § 2(4), 56 Stat. 1021).

Reference to cadets is omitted because they are included in the broad term "Personnel of the Reserve".

The last two sentences of said section are eliminated as no longer needed; the section as rewritten is intended to cover the special situations referred to in the last two sentences by assimilation to pay of the Naval Reserve.

Subsection (b) is new and insures that all benefits prescribed in chapter 13 for Regular personnel with specified exceptions are equally available to members of the Reserve.

Subsection (c) is based on title 14, U.S.C., 1946 ed., § 311 (Feb. 19, 1941, ch. 8, title II, § 211, 55 Stat. 12).

Said section has been divided. That part relating to members of the Reserve is placed in this section. That part relating to temporary members of the Reserve is covered in section 893 of this title.

Subsection (d) is new and provides that members of the Reserve shall in case of sickness or injury suffered while on active duty be entitled to the same treatment and hospitalization as Regular personnel.

Subsection (e) is based on title 14, U.S.C., 1946 ed., § 186 (June 29, 1948, ch. 708, § 311, 62 Stat. 1090).

Said act provides for the retirement of members of the Coast Guard Reserve along with members of the reserve components of the other armed forces. This section assimilates the retirement of members of the Coast Guard Reserve to members of the Naval Reserve; this is more in accord with other laws relating to members of the Coast Guard Reserve.

Said act, in its application to the other armed forces, would in no way be changed.

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

Section 253(b) of title 42, referred to in subsec. (d), was repealed by Pub. L. 88-71, § 2(a), July 19, 1963, 77 Stat. 83, and is now covered by section 253a(b) of Title 42, The Public Health and Welfare.

The Naval Reserve Act of 1938, referred to in subsec. (f), is act June 25, 1938, ch. 690, 52 Stat. 1175, which was repealed by act July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505 and by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641 and is now covered by section 6330 et seq. of Title 10, Armed Forces.

AMENDMENTS

1973—Subsec. (e). Pub. L. 93-174 substituted "Secretary of Transportation to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy" for "Secretary of the Treasury to be exercised with respect to the Coast Guard when the Coast Guard is operating under the Treasury Department".

1966—Subsec. (b). Pub. L. 89-444 removed sections 462 and 485(c) from the list of sections in chapter 13 of this title that are excepted from the general applicability of chapter 13 to members of the Reserve under the same conditions and limitations as are applicable to officers and enlisted men of the Regular Coast Guard.

1965—Subsec. (e). Pub. L. 89-200 excepted enlisted Coast Guard Reserve personnel retiring on the basis of years of active service from receiving benefits comparable to the benefits accorded Naval Reserve personnel, but, as to such personnel, granted retirement rights, benefits, and privileges prescribed by law for enlisted members of the Regular Coast Guard.

1962—Pub. L. 87-649 substituted "Benefits" for "Pay, allowances, and other benefits" in the catchline, and "the same benefits" for "the same pay, allowances, and benefits" in subsec. (a).

1957—Subsec. (f). Pub. L. 85-149 added subsec. (f).

1950—Subsec. (d). Act Aug. 3, 1950, permitted members of the Reserve who are retired for disability to receive medical treatment and hospitalization the same as regular members.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

CROSS REFERENCES

Date of allowance for higher grade on promotion, see section 784 of this title.

Hazardous duty, see section 301 of Title 37, Pay and Allowances of the Uniformed Services.

§ 756. Temporary membership; eligibility; compensation

The Commandant may enroll as temporary members of the Reserve, for duty under such conditions as he prescribes, including but not limited to part-time and intermittent active duty with or without pay, and without regard to age, citizens of the United States, its territories and possessions who are members of the Auxiliary, officers and members of the crew of any motorboat or yacht placed at the disposal of the Coast Guard, or persons (including Government employees without pay other than compensation of their civilian positions) who by reason of their special training and experience are deemed by the Commandant to be qualified for such duty. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as are provided for the personnel of the Reserve. When performing active duty with pay, as authorized by this section, temporary members of the Reserve shall be entitled to receive the pay and allowances of their respective ranks, grades, or ratings, authorized for members of the Reserve.

(Aug. 4, 1949, ch. 393, 63 Stat. 552.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 307 (Feb. 19, 1941, ch. 8, title II, § 207, 55 Stat. 12; June 6, 1942, ch. 385, § 1(4), 56 Stat. 329; Oct. 26, 1942, ch. 628, 56 Stat. 990; Nov. 23, 1942, ch. 639, § 2(5), 56 Stat. 1021; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352).

Changes were made in phraseology. 81st Congress, House Report No. 557.

CROSS REFERENCES

Disability or death benefits, see section 760 of this title.

Limitation on rights, see section 893 of this title.

§ 757. Exemption from military training and draft

Members of the Reserve, other than temporary members, shall be exempt from registration and liability for military training and service under any other law, and no member of the Reserve, other than a temporary member, shall be a member of any other naval or military organization. Temporary members of the Reserve who are members of any other naval or military reserve, if ordered to active duty therein, shall be forthwith released from all active duty with the Coast Guard, and their status as temporary members of the Reserve terminated.

(Aug. 4, 1949, ch. 393, 63 Stat. 552.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 308 (Feb. 19, 1941, ch. 8, title II, § 208, 55 Stat. 12).

Reference to the Auxiliary is eliminated because it is not a military service.

Changes were made in phraseology. 81st Congress, House Report No. 557.

[§ 758. Repealed. May 5, 1950, ch. 169, § 14(u), 64 Stat. 148]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 552, related to discipline. See the Uniform Code of Military Justice, section 801 et seq. of Title 10, Armed Forces.

§ 758a. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade

(a) Under such regulations as the Secretary prescribes, enlisted members of the Coast Guard Reserve may be designated as student aviation pilots.

(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless he agrees in writing, with the consent of his parent or guardian if he is a minor, to serve on active duty for a period of two years after successfully completing flight training, unless sooner released. Such a student aviation pilot may be released from active duty or discharged at any time by any administrative authority prescribed by the Secretary.

(c) If he is a qualified civilian aviator, a student aviation pilot may be given a brief refresher course in flight training.

(d) While he is in flight training, a student aviation pilot is entitled to have uniforms and equipment issued to him at Government expense.

(e) Under regulations prescribed by the Secretary, a student aviation pilot of the Coast Guard Reserve may be designated an aviation pilot upon the successful completion of flight training.

[(f) Repealed. Pub. L. 87-649, § 14d(6), Sept. 7, 1962, 76 Stat. 502.]

(g) In time of peace, an aviation pilot who is obliged under subsection (b) to serve on active duty for a period of two years may serve, with his consent, for an additional period of not more than two years.

(h) An aviation pilot of the Coast Guard Reserve may be released from active duty or discharged at any time by any administrative authority prescribed by the Secretary.

(i) An aviation pilot of the Coast Guard Reserve may, if qualified under regulations prescribed by the Secretary, be appointed an ensign in the Coast Guard Reserve.

(Added Aug. 10, 1956, ch. 1041, § 16(a), 70A Stat. 625, and amended Sept. 7, 1962, Pub. L. 87-649, § 14d(6), 76 Stat. 502.)

AMENDMENTS

1962—Subsec. (f). Pub. L. 87-649 repealed subsec. (f), which authorized an aviation pilot of the Coast Guard Reserve, while on active duty, to receive the pay of an enlisted member in pay grade E-5, or that of his grade, whichever is greater. See section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

[§ 759. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to uniform allowance.

EFFECTIVE DATE OF REPEAL

Repeal of section effective on the first day of the sixth month following July 1952.

§ 759a. Wartime appointments or promotions; retention of grade upon release from active duty

(a) A member of the Coast Guard Reserve who, while on active duty, is promoted under section 275 of this title or appointed under section 214 of this title is entitled, upon release from that duty, to the highest grade satisfactorily held by reason of such a promotion or appointment as determined by the Secretary.

(b) If a member so released is recalled to active duty, he shall, unless otherwise entitled to a higher grade, be recalled in the grade given him under subsection (a).

(Added Aug. 10, 1956, ch. 1041, § 16(a), 70A Stat. 626, and amended Sept. 24, 1963, Pub. L. 88-130, § 1(12), 77 Stat. 190.)

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-130 substituted "275" and "214" for "436" and "435", respectively.

§ 760. Disability or death benefits for temporary members

(a) In case of physical injury, or death resulting from physical injury, to any temporary member of the Reserve incurred incident to service while performing active Coast Guard duty, or engaged in authorized travel to or from such duty, the provisions of law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, subject to this section, shall apply, and shall be administered by the Secretary of Labor in the same manner and to the same extent as if such person were a civil employee of the United States and were injured in the performance of his duty. For benefit computation, regardless of pay or pay status, such person shall be deemed to have had monthly pay of $600.

(b) This section does not apply in any case coming within the purview of the Workmen's Compensation Law of any state, territory, or

other jurisdiction because of a concurrent employment status of such temporary member; and where such temporary member or dependent would be entitled to a benefit under the provisions of law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties and also to any concurrent benefit from the United States on account of the same disability or death, such temporary member or dependent shall elect which benefit he shall receive.

(c) Whenever, pursuant to this section a claim is filed with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor, or such officer, agency, or employee of the Department of Labor as he shall designate, shall notify the Commandant who shall cause an investigation to be made into the facts surrounding such alleged injury and make certification with respect thereto, including certification as to such injured or deceased person's temporary membership in the Reserve and his military status, and whether the injury or death occurred incident to service.

(d) Temporary members of the Reserve who incur physical disability or contract sickness or disease while performing any specific duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded officers and enlisted men of the Coast Guard.

(e) In administering the Federal Employees' Compensation Act for persons covered by this section—

(1) the percentages applicable to payments under section 10 of that Act are—

(A) 45 per centum for clause (C) of that section, in any case where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that clause;

(B) 20 per centum for clause (D) of that section, for one child, and 10 per centum additional for each additional child, but not more than a total of 75 per centum, in any case where the member died fully or currently insured under title II of the Social Security Act; and

(C) 25 per centum for clause (E) of that section, if one parent was wholly dependent for support upon the deceased member at the time of his death and the other was not dependent to any extent; 16 per centum to each if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(2) no payments may be made under clause (F) of that section; and

(3) the Secretary of Labor or his designee shall inform the Secretary of Health, Education, and Welfare whenever a claim is filed and eligibility for compensation is established under clause (C) or clause (D) of section 10 of that Act, and that Secretary shall then certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of his death.

(Aug. 4, 1949, ch. 393, 63 Stat. 553; Oct. 31, 1951, ch. 655, § 15, 65 Stat. 715; Aug. 3, 1956, ch. 926, § 2(a), 70 Stat. 981; May 14, 1974, Pub. L. 93-283, § 1(12), 88 Stat. 141.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 312 (Feb. 19, 1941, ch. 8, title II, § 212, 55 Stat. 12; Nov. 23, 1942, ch. 639, § 2(7), 56 Stat. 1021; Sept. 30, 1944, ch. 449, § 1, 58 Stat. 756; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095).

Said section has been divided. That part relating to temporary members of the Reserve is placed in this section. That part relating to the Auxiliary is placed in section 832 of this title.

Subsection (d) of section 312 of title 14, U.S.C., 1946 ed., is eliminated because no longer needed.

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

Federal Employees' Compensation Act, referred to in subsec. (e), is act Sept. 7, 1916, ch. 458, 39 Stat. 742, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and the provisions thereof reenacted as subchapter I (§ 8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees.

Section 10 of that Act, referred to in subsec. (e), is section 10 of act Sept. 7, 1916, ch. 458, 39 Stat. 744 [the Federal Employees' Compensation Act], which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted as section 8133 of title 5.

Title II of the Social Security Act, referred to in subsec. (e), is classified to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-283 substituted "$600" for "$300".

1956—Subsec. (a). Act Aug. 3, 1956, § 2(a)(1), substituted "$300" for "$150".

Subsec. (e). Act Aug. 3, 1956, § 2(a)(2), added subsec. (e).

1951—Subsec. (a). Act Oct. 31, 1951, substituted "Secretary of Labor" in lieu of "Bureau of Employees' Compensation, Federal Security Agency".

Subsec. (c). Act Oct. 31, 1951, in one place, substituted "Secretary of Labor" in lieu of "Bureau", and, in another place, substituted "Secretary of Labor, or such officer, agency or employee of the Department of Labor as he shall designate" in lieu of "Bureau".

EFFECTIVE DATE OF 1956 AMENDMENT

Section 2(b) of act Aug. 3, 1956, provided that: "The amendments made by this section [amending subsec. (a) and adding subsec. (e)] apply only to benefits for months beginning after the month in which it is enacted [August, 1956]."

PRIOR ENTITLEMENT TO FEDERAL EMPLOYEES' COMPENSATION ACT BENEFITS UNAFFECTED

Section 2(c) of act Aug. 3, 1956, provided that: "The entitlement of any person to benefits under the Federal Employees' Compensation Act [act Sept. 7, 1916, ch. 458, 39 Stat. 742, repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, now covered by section 8101 et seq. of Title 5, Government Organization and Employees] as it was in effect before the enactment of this section [Aug. 3, 1956] is not affected by this section."

§ 761. Engaging in civil occupation; leave for training duty

No existing law shall be construed to prevent any member of the Reserve solely by reason of membership therein from accepting employment in any civil branch of the Federal Govern-

ment or of the District of Columbia nor from receiving the pay and allowances incident to such employment in addition to the pay and allowances to which he may be entitled as a member of the Reserve, nor as prohibiting him from practicing his civilian profession or occupation before or in connection with any department of the Federal Government. Officers and employees of the United States or of the District of Columbia who are members of the Reserve shall be entitled to leave of absence from their respective duties, without loss of pay, time, or efficiency ratings when on training duty in the Reserve, not to exceed 15 calendar days in any one calendar year. All members of the Reserve who are in the employ of the United States Government or of the District of Columbia and who are ordered to duty by proper authority shall, when relieved from duty, be restored to the positions held by them when ordered to duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 554.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 313 (Feb. 19, 1941, ch. 8, title II, section 213, 55 Stat. 13).

Said section is rewritten to protect directly the rights of members of the Reserve in regard to their profession or occupation in civil life, rather than to protect only Federal or District of Columbia employees by assimilation to members of the Naval Reserve.

Similar provisions for members of the Naval Reserve are contained in [former] title 34, U.S.C., 1946 ed., §§ 853b, 853g. 81st Congress, House Report No. 557.

CROSS REFERENCES

Dual pay and dual employment generally, see section 5531 et seq. of Title 5, Government Organization and Employees.

[§ 762. Repealed. Pub. L. 93-174, § 2(2), Dec. 5, 1973, 87 Stat. 692]

Section, acts Aug. 4, 1949, ch. 393, § 1, 63 Stat. 554; Aug. 10, 1956, ch. 1041, § 17, 70A Stat. 626; Sept. 18, 1970, Pub. L. 91-402, § 1(1), 84 Stat. 838, related to Women's Reserve.

§ 763. Certificate of honorable service of temporary members

In recognition of the service of temporary members of the Reserve during World War II, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to any person following disenrollment under honorable conditions from service as a temporary member during the period from December 7, 1941, to July 1, 1946, both dates inclusive. Issuance of a certificate of honorable service to any person under this section does not entitle him to any rights, privileges, or benefits under any law of the United States.

(Added Pub. L. 87-704, § 1(a), Sept. 27, 1962, 76 Stat. 632.)

§ 764. Active duty for emergency augmentation of regular forces

(a) Notwithstanding the provisions of any other law and for the emergency augmentation of regular Coast Guard forces at times of serious natural or manmade disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of persons affected, order to active duty of not more than fourteen days in any four-month period and not more than thirty days in any one-year period from the Coast Guard Ready Reserve any organized training unit; any member or members thereof; or any member not assigned to a unit organized to serve as a unit.

(b) A reasonable time, under the circumstances of the domestic emergency involved, shall be allowed between the date when a Reserve ordered to active duty under this section is alerted for that duty and the date when he is required to enter upon that duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

(c) Active duty served under this section—

(1) shall satisfy on a day-for-day basis all or a part of the annual active duty for training requirement of section 270 of title 10, United States Code;

(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

(3) entitles a member while engaged therein, or while engaged in authorized travel to or from such duty, to all the rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which he would be entitled while performing other regular active duty.

(Added Pub. L. 92-479, § 1, Oct. 9, 1972, 86 Stat. 794.)

§ 765. Enlistment of members engaged in schooling

To permit the enlistment of Reserve members without interruption of full-time schooling in which they are engaged, the four-month initial period of active duty for training requirement of subsection (d) of section 511 of title 10, United States Code, may be divided into two successive annual periods of not less than two months each.

(Added Pub. L. 93-283, § 1(13), May 14, 1974, 88 Stat. 141.)

COMMISSIONED OFFICERS

AMENDMENTS

1958—Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1547, added this subchapter consisting of sections 770 to 795 of this title.

§ 770. Definitions

As used in sections 770 to 798, inclusive, of this title—

(1) "Secretary" means the Secretary of the respective department in which the Coast Guard is operating;

(2) "Reserve" means the Coast Guard Reserve;

(3) "Reserve officer" means a commissioned officer in the Coast Guard Reserve, except those officers specifically excluded by section 771 of this title, and except commissioned warrant officers;

(4) "promotion" and "promoted", unless otherwise specified or required by the context, refer to the appointment of a Reserve

officer in the next higher grade as a Reserve officer of the Coast Guard;

(5) "grade" means, unless otherwise specified, the permanent grade of a Reserve officer;

(6) "points" means points credited under section 1332(a)(2) of title 10, United States Code;

(7) "active status" means the status of a Reserve officer who is not on the Inactive Status List, or in the Retired Reserve;

(8) "discharged" means discharged from an appointment as a Reserve officer;

(9) the "active duty promotion list" is as defined in section 41a of this title.

(10) "this subchapter" means sections 770 to 798, inclusive, of this title.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1547, and amended Pub. L. 91-402, § 1(2), Sept. 18, 1970, 84 Stat. 839.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
770(1)	50:1381(a).	Sept. 3, 1954, ch. 1257, §§ 102, (less clauses (5) and (8)), 601, 68 Stat. 1149, 1183.
770(2)	50:1381(b).	
770(3)	50:1181(1), 1381(c).	
770(4)	50:1181(2).	
770(5)	50:1181(3).	
770(6)	50:1181(4).	
770(7)	50:1181(6).	
770(8)	50:1181(7).	
770(9)	[No source].	

The words "As used in section 770 to 795, inclusive, of this title—" are substituted for the words "When used in this chapter—" in 50:1181 and for the words "As used in this subchapter—" in 50:1381. Subsection (9) has been inserted to define "this subchapter" for the purpose of identifying the sections referred to when that term is used in the sections being codified.

AMENDMENTS

1970—Pub. L. 91-402 substituted "798" for "795" in introductory text, added cl. (9) defining "active duty promotion list", and redesignated former cl. (9) as (10), substituting therein "798" for "795".

SAVINGS PROVISIONS

Section 2 of Pub. L. 91-402 provided that:

"(a) Reserve officers in each grade who have been recommended as qualified for promotion under laws and regulations in effect the day before the effective date of this Act [Sept. 18, 1970] but not promoted to the grade for which they were recommended shall be placed on a list in the order of their precedence, and they shall be promoted as if they had been selected for promotion in the approved report of a selection board convened under the provisions of title 14, United States Code, as amended by this Act [enacting sections 796 to 798 and amending sections 762, 770, 772, 774, 775, 780 to 782, 784, 787, 790, and 791 of this title].

"(b) Reserve officers who have failed of selection for promotion to the next higher grade under laws and regulations in effect the day before effective date of this Act [Sept. 18, 1970] shall be deemed to have failed of selection for promotion to the next higher grade under the provisions of title 14, United States Code, as amended by this Act [enacting sections 796 to 798 and amending sections 762, 770, 772, 774, 775, 780 to 782, 784, 787, 790, and 791 of this title].

"(c) The enactment of this Act [enacting sections 796 to 798 and amending sections 762, 770, 772, 774, 775, 780 to 782, 784, 787, 790, and 791 of this title] does not terminate the appointment of any officer."

§ 771. Applicability of this subchapter

(a) This subchapter applies only to the Coast Guard Reserve.

(b) This subchapter does not apply to temporary members of the Coast Guard Reserve.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1548, and amended Pub. L. 89-444, § 1(24), June 9, 1966, 80 Stat. 197; Pub. L. 93-174, § 2(3), Dec. 5, 1973, 87 Stat. 692.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
771	50:1382.	Sept. 3, 1954, ch. 1257, § 602, 68 Stat. 1183.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-174 struck out provisions relating to the applicability of the subchapter to women members of the Reserve.

1966—Subsec. (b). Pub. L. 89-444 struck out reference to officers of the Reserve whose names appear in the Register of the Commissioned and Warrant Officers and Cadets of the U.S. Coast Guard.

Subsec. (c). Pub. L. 89-444 struck out subsec. (c) which provided that officers of the Reserve whose names appear in the Register of the Commissioned and Warrant Officers and Cadets of the U.S. Coast Guard and who are excluded from applicability of this subchapter shall be considered for promotion under the regulations governing promotions of officers of the regular Coast Guard as though such officers were officers of the Regular Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 772. Authorized number of officers

(a) The authorized number of officers in the Coast Guard Reserve in active status is 5,000. The actual number of Reserve officers in active status at any time shall not exceed these authorized numbers unless the Secretary shall determine that a greater number is necessary for planned mobilization requirements, or unless such excess shall result directly from the operation of mandatory provisions of this or other laws.

(b) The authorized number of officers of the Coast Guard Reserve in active status in each of the grades below the grade of rear admiral shall be a percentage of the total authorized number of such officers in active status below the grade of rear admiral, and shall be 1.5 percent in the grade of captain, 7.0 percent in the grade of commander, 22.0 percent in the grade of lieutenant commander, 37.0 percent in the grade of lieutenant, and 32.5 percent in the combined grades of lieutenant (junior grade) and ensign, except that when the actual number of Coast Guard Reserve officers in an active status in any grade is less than the number which is so authorized, the difference may be applied to increase the authorized number in any lower grade or grades. No Reserve officer shall be reduced in rank or grade solely because of a reduction in an authorized number provided in this subsection or because an excess results directly from the operation of mandatory provisions of this or other laws. The

authorized number of Coast Guard Reserve officers in an active status in the grade of rear admiral shall be two.

(c) The Secretary may determine the number of Reserve officers in each grade who may be promoted annually under the provisions of this subchapter. The number which shall be so determined for each grade shall be the number deemed to be necessary to provide equitable opportunity for promotion among succeeding groups of Reserve officers and an adequate continuing strength of Reserve officers in an active status, and shall not cause the number of Reserve officers in active status in any grade to exceed the number authorized in this section for that grade.

(Added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1548, and amended Pub. L. 86–559, § 2(1), June 30, 1960, 74 Stat. 280; Pub. L. 91–402, § 1(3), Sept. 18, 1970, 84 Stat. 839.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
772(a).....	50:1383(a).	Sept. 3, 1954, ch. 1257, § 603, 68 Stat. 1184.
772(b).....	50:1383(b).	
772(c).....	50:1383(c).	

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-402 prohibited reduction in rank or grade of Reserve officer because an excess results directly from operation of mandatory provisions of this or other laws.

1960—Subsec. (a). Pub. L. 86-559 reduced the authorized number of officers in an active status from 6,000 to 5,000.

Subsec. (b). Pub. L. 86-559 substituted "1.5" for "0.6", "7.0" for "3.5", "22.0" for "25", and "32.5" for "33.9".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 770, 780 of this title.

§ 773. Constructive credit upon initial appointment

Upon appointment as a Coast Guard Reserve officer, a person may be placed in a commensurate position on the Reserve lineal list to reflect his combined years of experience, education, and such other qualifications as may be prescribed by regulations promulgated by the Secretary. Any such person who is appointed for the purpose of or with a view to assignment or designation as a Law Specialist of the Coast Guard Reserve shall, for purposes of this subchapter only, be credited with a minimum amount of service in an active status of three years, and a person holding a degree of Doctor of Philosophy, or comparable degree, in a science allied to medicine as may be determined by the Secretary, may be credited with a minimum amount of service in an active status of three years if appointed for an assignment comparable to that of an officer in the Medical Service Corps of the Army.

(Added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1548, and amended Pub. L. 86–559, § 2(2), June 30, 1960, 74 Stat. 281.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
773.....	50:1191.	Sept. 3, 1954, ch. 1257, § 201, 68 Stat. 1150.

AMENDMENTS

1960—Pub. L. 86-559 eliminated words "who holds no appointment as a commissioned officer of the Armed Forces" which preceded "may be placed in a commensurate position".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 774. Eligibility for promotion; retention in active status

A Reserve officer must be in an active status to be eligible for consideration for promotion and to be promoted under this subchapter. Officers retained in an active status and excluded from promotion by the provisions of section 787 of this title are not eligible for consideration for promotion.

(Added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1549, and amended Pub. L. 91–402, § 1(4), Sept. 18, 1970, 84 Stat. 839.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
774.....	50:1192(a).	Sept. 3, 1954, ch. 1257, § 202(a), 68 Stat. 1150.

AMENDMENTS

1970—Pub. L. 91-402, in revising eligibility provisions, substituted "to be promoted" for "to be eligible for promotion" and made ineligible for consideration for promotion officers retained in an active status and excluded from promotion by provisions of section 787 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 770, 783 of this title.

§ 775. Selection boards; appointment

(a) Selection boards and other boards of officers appointed under this subchapter shall be appointed and convened by the Secretary or by such competent authority as the Secretary may direct.

(b) At least 50 percent of the members of any selection board appointed under the provisions of this subchapter shall, to the extent practicable, be Reserve officers. All members of any selection board shall be senior in permanent grade and temporary rank to any officer being considered by that board.

(c) Selection boards shall serve for such length of time as the Secretary may prescribe, but no board shall serve longer than one year. No officer shall serve on two consecutive selection boards when the second of such boards considers any of the officers who were considered but not recommended for promotion to

the same grade by the first selection board upon which he served.

(d) Each selection board shall be composed of not less than five members which number shall constitute a quorum. Every officer who is appointed a member of a selection board will swear or affirm that he will without prejudice or partiality and, having in view both the special fitness of officers and the efficiency of the Coast Guard, perform the duties imposed on him as a member of such board. Not less than a majority of the total membership of any selection board must concur in each recommendation made by the board.

(e) Any officer eligible for consideration for promotion by any selection board shall have the right to forward through official channels a written communication inviting attention to any matter of record in the Armed Forces concerning himself which he deems important to his consideration which must arrive at a time not later than the convening of the selection board. The communication may not criticize or reflect upon the character, conduct, or motive of any officer.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1549, and amended Pub. L. 91-402, § 1(5), Sept. 18, 1970, 84 Stat. 839; Pub. L. 93-174, § 2(4), Dec. 5, 1973, 87 Stat. 692.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
775(a)	50:1193(a).	Sept. 3, 1954, ch. 1257, § 203, 68 Stat. 1150.
775(b)	50:1193(b).	
775(c)	50:1193(c).	
775(d)	50:1193(d).	
775(e)	50:1193(e).	

AMENDMENTS

1973—Subsec. (f). Pub. L. 93-174 struck out subsec. (f), which provided that membership of the selection board shall include two members of the Women's Reserve not on active duty whenever the board is convened to consider officers of the Women's Reserve not serving on active duty.

1970—Subsec. (f). Pub. L. 91-402 added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 776. Grade on entry upon active duty

Reserve officers who are hereafter ordered to active duty or active duty for training shall be so ordered in the grades held by them as Reserve officers except that the Secretary may, in his discretion, order such officers to active duty in any higher temporary grade.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1549.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
776	50:1197.	Sept. 3, 1954, ch. 1257, § 207, 68 Stat. 1152.

The word "appropriate" has been omitted as surplusage.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 777. Recommendation for promotion of officers previously removed from active status

Any Reserve officer recommended for promotion by a selection board who, at the time he otherwise would be promoted, is not eligible therefor because he has been removed from an active status, shall not, if returned to an active status, be placed on a recommended list for promotion until subsequently recommended for promotion by a selection board and shall not be deemed to have been considered for promotion by the selection board which last considered him prior to the time he is returned to an active status.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1549.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
777	50:1198.	Sept. 3, 1954, ch. 1257, § 208, 68 Stat. 1152.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 778. Suspension of this subchapter in war or national emergency

In time of war or national emergency declared by the Congress, the President is authorized, in his discretion, to suspend the operation of all or any of the sections of this subchapter. If any or all of such sections are suspended by the President under this section, the Secretary of Defense, prior to the sections suspended being again placed in operation, shall recommend to Congress necessary legislation designed to adjust the grades of Reserve officers and such legislation shall be, insofar as practicable, comparable to any similar legislation recommended for adjustment of the grades of officers of the Regular Coast Guard.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1550.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
778	50:1199.	Sept. 3, 1954, ch. 1257, § 209, 68 Stat. 1152.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 779. Sea or foreign service requirements

There shall be no requirement for sea or foreign service for the promotion of Reserve officers under this subchapter.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1550.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
779	50:1200.	Sept. 3, 1954, ch. 1257, § 210, 68 Stat. 1152.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 780. Promotion; recommendations of selection boards

(a) Except as otherwise provided by law, all promotions of Reserve officers shall be effected pursuant only to the recommendation of a selection board.

(b) Selection boards shall be convened from time to time so that Reserve officers in the promotion zone for a particular grade will receive consideration for promotion concurrently with, or as soon as practicable after, their running mates. Separate boards may be convened to consider officers in one or more grades; or one board may be convened to consider officers in all grades, whichever is most practicable, provided that all members of such boards shall be senior to all officers to be considered by the board.

(c) Each selection board, from among those officers whose names are submitted to it as determined by section 783 of this title, shall recommend for promotion to the next higher grade:

(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

(d) Before convening a board to recommend officers for promotion to any grade above lieutenant (junior grade), the Secretary shall determine the total number of officers to be selected for promotion to that grade. Unless the Secretary takes action pursuant to the provisions of subsection (c) of section 772 of this subchapter, this number shall be equal to the number of vacancies existing in the grade, plus the number of vacancies estimated for the next twelve months, less the number of officers on the promotion list for that grade.

(e) The law and regulations now or hereafter existing relating to the selection for promotion of commissioned officers of the Coast Guard to the grade of rear admiral shall apply to officers of the Reserve except that no officer in the grade of captain shall be eligible for consideration who has not completed a minimum of twenty years of total commissioned Coast Guard or Coast Guard Reserve service. Until January 1, 1963, for purposes of this subsection, in addition to actual commissioned service, a Reserve officer initially appointed in a grade above that of ensign shall be allowed a period of constructive service equal to that of the regular officer next senior to him in precedence who has served continuously on active duty and who has not lost numbers or precedence, computed from the date of such regular officer's first appointment as ensign up to the date of original appointment of such Reserve officer.

(f) The report of each promotion board shall be submitted to the Commandant for review and transmission to the President for approval. In case any officer or officers recommended by a board for promotion are not acceptable to the President, the final action by the President will disapprove their selection for promotion.

(g) The recommendations of promotion boards, as approved by the President, will constitute promotion lists from which promotion of officers of the Reserve will be made, subject to establishment of physical qualification and verification that service subsequent to the convening of the promotion board has remained of satisfactory character. Officers on a promotion list will remain thereon until promoted unless removed by the President for due cause. If an existing promotion list has not been exhausted by the time a later list has been approved, all remaining officers on the older list shall be tendered appointments before use of the later list is commenced.

(h) The procedure of selection boards and the procedures for effecting the promotion of those officers selected shall be as determined by the Secretary.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1550, and amended Pub. L. 91-402, § 1(6), Sept. 18, 1970, 84 Stat. 839; Pub. L. 93-174, § 2(5), (6), Dec. 5, 1973, 87 Stat. 692.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
780(a)	50:1384(a).	Sept. 3, 1954, ch. 1257, § 604, 68 Stat. 1184.
780(b)	50:1384(b).	
780(c)	50:1384(c).	
780(d)	50:1384(d).	
780(e)	50:1384(e).	
780(f)	50:1384(f).	
780(g)	50:1384(g).	
780(h)	50:1384(h).	

AMENDMENTS

1973—Subsec. (c). Pub. L. 93-174, § 2(5), substituted "promotion to the next higher grade" for "promotion to the next high grade" in provisions preceding cl. (1), and "those officers" for "those male officers" in cls. (1) and (2), and struck out cls. (3) and (4).

Subsec. (i). Pub. L. 93-174, § 2(6), struck out subsec. (i), which provided that vacancies in all grades be filled by the combined total of male and female officers selected for promotion, that selection opportunity for officers of the Women's Reserve to grades above lieutenant commander be equivalent to that prescribed for male officers of the same grades, that officers of the Women's Reserve being considered for promotion to the grades of lieutenant commander or below shall be considered and selected in their order of precedence up to the number designated to be selected.

1970—Subsec. (c). Pub. L. 91-402, § 1(6)(A), substituted best qualified for prior qualified system of promotion for male officers serving in grade of lieutenant (junior grade) or above and officers of Women's Reserve in grade of lieutenant commander or above, incorporated in cls. (1) and (4), retained the qualified as full qualified system for male officers in grade of ensign and officers of Women's Reserve in grade of lieutenant or below, incorporated in cls. (2) and (3),

and omitted ", and without regard to existing precedence or seniority," following "section 783 of this title" and provisions for consideration of officers in order of relative seniority and that when number of officers found to be qualified equalled number of vacancies to be filled, board did not have to consider any officers junior to last officer found to be qualified and recommended for promotion.

Subsec. (d). Pub. L. 91-402, § 1(6)(A), substituted requirement that Secretary determine number of promotions to any grade above lieutenant (junior grade) before convening a board for promotions and that the number equal the number of vacancies existing in the grade, plus number of vacancies estimated for next twelve months, less number of officers on promotion list for that grade for prior provision for resubmission of names of officers (deemed as not having failed of selection) to next ensuing selection board when junior officers were not considered pursuant to former provisions of subsec. (c) of this section.

Subsec. (i). Pub. L. 91-402, § 1(6)(B), added subsec. (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 770, 776 of this title; title 10 section 1006.

§ 781. Precedence

Officers of the Reserve shall have rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with the dates of rank as stated in their commissions. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, such officers shall take precedence as determined by the Secretary.

Notwithstanding any other provision of law, Reserve officers shall not lose precedence when transferred from the Reserve promotion list to the active duty promotion list or vice versa nor shall their dates of rank be changed due to such transfers.

Reserve officers, when on the active duty promotion list, shall be promoted in the same manner as are other officers on the active duty promotion list regardless of the length of their active duty service.

(Added Pub. L. 858-861, § 5(2), Sept. 2, 1958, 72 Stat. 1551, and amended Pub. L. 91-402, § 1(7), Sept. 18, 1970, 84 Stat. 840.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
781	50:1385.	Sept. 3, 1954, ch. 1257, § 605, 68 Stat. 1185.

AMENDMENTS

1970—Pub. L. 91-402, in first par., substituted "same grade on the active duty promotion list and the permanent commissioned teaching staff" and "officers on the active duty promotion list or the permanent commissioned teaching staff" for "same grades of the Regular Coast Guard respectively" and "regular officers" in first and second sentences, respectively, and added prohibition of second par. against loss of precedence or change in dates of rank of Reserve officers when transferred between Reserve promotion list and active duty promotion list and third par. provisions for promotion of Reserve officers when on active duty promotion list without regard to length of active duty service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 770, 782 of this title.

§ 782. Running mates

(a) Each officer of the Reserve in an active status not on the active duty promotion list shall be assigned a running mate who shall be the officer of the same grade on the active duty promotion list who is next senior to him in precedence as determined in the manner prescribed in section 781 of this title. Officers who are extra numbers, who have twice failed of selection, or who have not been recommended for continuation under section 289 of this title shall not be assigned as running mates under this section.

(b) When necessary, new running mates shall be determined at the times and in the manner set forth below:

(1) If a running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers loss of numbers, or fails to qualify for promotion, the new running mate shall be the officer of the same grade on the active duty promotion list who was next senior to the old running mate or if there be no such officer then the most senior officer in that grade on the active duty promotion list. If the old running mate was on a list of selectees for promotion, the new running mate shall be on a list of selectees.

(2) If an officer of the Reserve suffers loss of numbers, the new running mate shall be the officer on the active duty promotion list who is the running mate of the Reserve officer next senior to the officer concerned after the loss of numbers has been effected.

(3) If an officer of the Reserve is considered for promotion at approximately the same time as his running mate and fails of selection, fails to qualify for promotion after selection, or declines an appointment after having been selected for promotion and his running mate is promoted, the new running mate shall be the next senior officer remaining in the same grade on the active duty promotion list whose name is not on a list of selectees and who is eligible for consideration for promotion.

(4) If an officer of the Reserve was not considered for promotion at approximately the same time as his running mate, and the Reserve officer subsequently is considered and fails of selection or fails to qualify for promotion, such failure shall be deemed to have occurred at the same time as his running mate was considered. His new running mate shall be the next senior officer remaining in the same grade on the active duty promotion list whose name was not on a list of selectees at the time the original running mate was selected.

(5) In any situation not expressly covered by this subsection or where the assignment of a running mate would result in an inequitable change in precedence, the Secretary may

assign an appropriate running mate to effect the intent of this section that no unjust benefit or detriment will result to any officer from the operation of this section.

(6) A Reserve officer on the active duty promotion list shall become the running mate of the inactive duty Reserve officers who are junior to him and had a running mate in common with him at the time of his being placed on the active duty promotion list.

(c) The Secretary is authorized to adjust, as necessary, the dates of rank of Reserve officers not on active duty so that the dates will correspond with those of the running mates assigned to them in accordance with the provisions of this section. However, the dates of rank of those Reserve officers whose names are on a list of selectees for promotion to the next higher grade at the time of enactment of this subsection, shall not be adjusted until such time as the officers have been promoted. If overpayments of pay and allowances will have resulted from the adjustment of dates of rank, such overpayments shall not be subject to recoupment.

(Added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1551, and amended Pub. L. 91–402, § 1(8), Sept. 18, 1970, 84 Stat. 840.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
782(a).....	50:1386(a).	Sept. 3, 1954, ch. 1257, § 606, 68 Stat. 1185; June 30, 1955, ch. 247, § 5(a), (b), 69 Stat. 221.
782(b).....	50:1386(b).	

In subsection (a), the words "section 781" are substituted for the words "section 1385".

REFERENCES IN TEXT

Time of enactment of this subsection, referred to in subsec. (c), means Sept. 18, 1970, date of enactment of Pub. L. 91–402, which added subsec. (c).

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–402, § 1(8)(A), substituted in first sentence, "not on the active duty promotion list shall be assigned a running mate" and "officer of the same grade on the active duty promotion list" for "shall have a running mate" and "officer of the Regular Coast Guard of the same grade, exclusive of extra numbers,", respectively, and added second sentence prohibition against assignment as running mates of officers who are extra numbers, who have twice failed of selection, or who have not been recommended for continuation under section 289 of this title.

Subsec. (b)(1). Pub. L. 91–402, § 1(8)(B), inserted provision for new running mate when running mate is promoted from below the promotion zone or is removed from the active duty promotion list, deleted provision for new running mate when running mate is retired, dies, or otherwise is separated from the service, and substituted requirement that new running mate be officer of same grade on active duty promotion list who was next senior to old running mate or if there be no such officer the most senior officer in that grade on active duty promotion list, and that he be on a list of selectees if old running mate who was on such a list for promotion, for prior requirement that new running mate be the officer of the Regular Coast Guard of same grade who was next senior to old running mate, exclusive of extra numbers, or if there be no such Regular officer then the most senior Regular officer in the grade.

Subsec. (b)(2). Pub. L. 91–402, § 1(8)(C), substituted "on the active duty promotion list" for "of the regular Coast Guard, exclusive of extra numbers".

Subsec. (b)(3). Pub. L. 91–402, § 1(8)(D), inserted provision for new running mate when a Reserve officer is considered for promotion at same time as his running mate and declines an appointment after having been selected for promotion and his running mate is promoted and substituted requirement that new running mate be next senior officer remaining in same grade on active duty promotion list whose name is not on list of selectees and who is eligible for consideration for promotion for prior requirement that new running mate be the senior officer of the Regular Coast Guard remaining in that grade, exclusive of extra numbers, whose name is not on a promotion list.

Subsec. (b)(4). Pub. L. 91–402, § 1(8)(E), substituted provision deeming the failure to have occurred at same time as running mate was considered when Reserve officer was not considered for promotion at same time as the running mate, and Reserve officer subsequently is considered and fails of selection or fails to qualify for promotion and requirement that new running mate be next senior officer remaining in same grade on active duty promotion list whose name was not a list of selectees at time original running mate was selected for prior provisions making new running mate to be officer of Regular Coast Guard who is next senior to old running mate, exclusive of extra numbers, when a running mate is retarded in rate of promotion or has attained highest rank to which he may be promoted, deeming an officer as having been retarded when another officer in his grade junior to him is eligible for promotion ahead of him, and reassigning old running mate as running mate of Reserve officer concerned when the old running mate is promoted and is restored to precedence he would have held but for the retardation.

Subsec. (b)(5). Pub. L. 91–402, § 1(8)(F), added cl. (5).

Subsec. (b)(6). Pub. L. 91–402, § 1(8)(G), added cl. (6).

Subsec. (c). Pub. L. 91–402, § 1(8)(H), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 783. Promotion zone

Subject to the provisions of section 774 of this title—

(a) an officer of the Reserve shall be deemed to be in the promotion zone when his running mate is in the promotion zone and shall then become eligible for consideration by a selection board for promotion to the next higher grade at approximately the same time as his running mate is considered for promotion; and

(b) an officer whose name is on a promotion list, shall, unless his promotion is withheld pursuant to applicable laws or regulations be tendered an appointment in the next higher grade at the same time, or as soon thereafter as practicable, as a similar appointment is tendered to his running mate.

(Added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1552.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
783.....	50:1387.	Sept. 3, 1954, ch. 1257, § 607, 68 Stat. 1186.

The words "section 774 of this title—" are substituted for the words "section 1192 of this title—".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 770, 780 of this title.

§ 784. Date of rank upon promotion; entitlement to pay

(a) When an officer of the Reserve is promoted to the next higher grade under the provisions of this subchapter either for temporary service or for service in permanent grade, he shall be assigned the same date of rank as that assigned to his running mate for either and/or both types of service and a Reserve officer so promoted shall be allowed pay and allowances of the higher grade for duty performed from the date of his appointment thereto.

(b) Notwithstanding any other provision of law, a Reserve rear admiral shall become entitled to the pay and allowances of the upper half for duty performed from the date his running mate becomes so entitled.

(Added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1552, and amended Pub. L. 91–402, § 1(9), Sept. 18, 1970, 84 Stat. 841.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
784	50:1388.	Sept. 3, 1954, ch. 1257, § 608, 68 Stat. 1182; June 30, 1955, ch. 247, § 5(b), 69 Stat. 221.

The word "subchapter" is substituted for the word "chapter".

AMENDMENTS

1970—Pub. L. 91-402 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 785. Limitation on consideration for promotion

No officer of the Reserve shall receive consideration for promotion or be promoted under any provision of law unless he has attained the minimum number of points prescribed by the Secretary. Such number of points shall not exceed fifty points per anniversary year.

(Added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1552.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
785	50:1389.	Sept. 3, 1954, ch. 1257, § 609, 68 Stat. 1186.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 786. Qualifications for promotion

(a) No officer of the Coast Guard Reserve shall be promoted to a higher grade until he has been found to be mentally, morally, professionally, and physically qualified therefor.

(b) Subsection (a) of this section shall not exclude from the promotion to which he would otherwise be regularly entitled any Reserve officer in whose case a medical board may report that his physical disqualification for duty at sea or in the field was occasioned by wounds received in the line of duty, and that such wounds do not incapacitate him for other duties in the grade to which he shall be promoted.

(Added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1552.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
786(a)	50:1390(a).	Sept. 3, 1954, ch. 1257, § 610, 68 Stat. 1186.
786(b)	50:1390(b).	

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 787. Failure of selection and elimination

(a) Reserve officers after failing of selection for promotion to the next higher grade for a second time, may be retained in or eliminated from an active status in the discretion of the Secretary. Those Reserve officers who are not retained in an active status shall be given an opportunity to apply for transfer to the Retired Reserve if qualified, but unless so transferred shall be discharged on June 30 of the fiscal year in which they have completed the following periods of total commissioned service for the grades specified:

Grade:	*Total years of commissioned service*
Captain	30
Commander	26
Lieutenant Commander	20

For the purposes of this subsection, the total commissioned service of an officer who shall have served continuously in the Coast Guard Reserve following appointment therein in the grade or rank of ensign shall be computed from June 30 of the fiscal year in which he accepted appointment. Each Reserve officer initially appointed in a grade above that of ensign shall be deemed to have for these purposes, as much total commissioned service as any officer of the Regular Coast Guard who has served continuously since original appointment as ensign, has not lost numbers or precedence and who is, or shall have been, junior to such Reserve officer, except that the total commissioned service that such Reserve officer shall be deemed to have shall not be less than the actual number of years he has served in commissioned officer status above the grade of commissioned warrant officer.

(b) A Reserve officer who is eliminated from an active status under this section—

(1) shall be afforded an opportunity to request transfer to the Retired Reserve, if qualified; and

(2) if qualified, and he elects transfer to the Retired Reserve, shall be so transferred; or

(3) if not transferred to the Retired Reserve under (1) and (2) above, he shall be transferred to the Inactive Status List or discharged in the discretion of the Secretary.

(c) Notwithstanding subsection (a), a reserve commissioned officer, other than a commissioned warrant officer, who is assigned to the Selective Service System may be retained in an active status in that assignment until he becomes 60 years of age.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1552, and amended Pub. L. 91-402, § 1(10), Sept. 18, 1970, 84 Stat. 841; Pub. L. 93-174, § 2(7), Dec. 5, 1973, 87 Stat. 692.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
787(a)	50:1391(a).	Sept. 3, 1954, ch. 1257, §§ 212, 611, 68 Stat. 1153, 1186.
787(b)	50:1391(b).	
787(c)	50:1202.	

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-174 struck out "Officers of the Women's Reserve in the grades of lieutenant (junior grade) and lieutenant failing of selection for promotion to the next higher grade, and all other" preceding "Reserve officers after failing".

1970—Subsec. (a). Pub. L. 91-402 substituted: in first sentence, "Officers of the Women's Reserve in the grades of lieutenant (junior grade) and lieutenant failing of selection for promotion to the next higher grade, and all other Reserve officers after failing of selection for promotion to the next higher grade for a second time," for "A Reserve officer not above the grade of lieutenant after failing of selection for promotion to the next higher grade for a second time; in second sentence, "Those" for "Other" and "who are not retained in an active status" for "whose names are not on a promotion list after failing of selection for promotion to the next higher grade a second time"; and, in second sentence, column heading, "Total years of commissioned service" for "Total commissioned service years", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 770, 774 of this title; title 10 section 1006.

§ 787a. Excessive number; elimination from active status to provide a flow of promotion

(a) Notwithstanding any other provisions of this title, whenever the Secretary shall determine it to be necessary to provide a steady flow of promotions or that there is an excessive number of Reserve officers in an active status in any grade, he may convene a board which shall consider all such Reserve officers of that grade in an active status not on active duty. The Secretary shall direct the board to select and recommend by name a specified number of such officers for retention in an active status.

(b) The Secretary may in the case of an officer not recommended for retention in an active status under subsection (a) of this section—

(1) Transfer the officer to the Retired Reserve if he is qualified and applies for transfer;

(2) Transfer the officer to the Inactive Status List, if qualified; or

(3) Discharge the officer.

(Added Pub. L. 86-559, § 2(3), June 30, 1960, 74 Stat. 281.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 788. Effect of removal by the President or failure of consent of Senate

The President may remove the name of any officer from the promotion list. An officer whose name is so removed from the promotion list, or one whose appointment to flag rank is rejected by the Senate, shall continue to be eligible for consideration for recommendation for promotion. The next ensuing selection board may recommend the officer concerned for promotion, and thereupon, with the approval of the President, the name of such officer shall be replaced on the promotion list, without prejudice by reason of its having been temporarily removed therefrom, and when promoted such officer shall take the same rank and date of rank that he would have had had his name not been so removed. If such officer is not so recommended by such next ensuing selection board or if the President shall again remove his name from the promotion list or if the Senate shall again reject his appointment, he shall be held for all purposes to have twice failed of selection for promotion.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1553.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
788	50:1392.	Sept. 3, 1954, ch. 1257, § 612, 68 Stat. 1187.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 789. Maximum ages for retention in active status

(a) A Reserve officer, if otherwise qualified, shall be transferred to the Retired Reserve on the date upon which he bcomes sixty-two years of age, except that a Reserve officer initially appointed prior to January 1, 1953, at such age that completion of twenty years of satisfactory Federal service for retirement purposes cannot be accomplished by age sixty-two may be retained in an active status not later than the date upon which he becomes sixty-four years of age.

(b) Notwithstanding subsection (a) of this section, the Secretary may authorize such classes or categories of Reserve flag officers as he may designate to be retained in an active status not

later than the date on which the officer concerned becomes sixty-four years of age.

(c) Except as provided in subsections (a) and (b) of this section, a Reserve officer shall, unless transferred to the Retired Reserve, be discharged effective upon the date he reaches sixty-two years of age.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1553.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
789(a).....	50:1393(a).	Sept. 3, 1954, ch. 1257,
789(b).....	50:1393(b).	§ 613, 68 Stat. 1187.
789(c).....	50:1393(c).	

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 790. Type of promotion; temporary; permanent

(a) Notwithstanding any other law, if a Reserve officer is promoted when his running mate is promoted and such promotion of the running mate is on a temporary basis, the promotion of the Reserve officer concerned shall be on a temporary basis, and if subsequently the running mate is reverted to a lower grade (for reasons other than disciplinary or for incompetence or at his own request), the Reserve officer shall likewise revert to the same lower grade in the same manner as his running mate and take corresponding precedence.

(b) An officer of the Reserve shall be promoted for temporary service or promoted permanently dependent upon the character of the promotion extended to his running mate. Subject to satisfactory service, under such appointment for temporary service, the appointment of the officer of the Reserve will be made permanent when that of his running mate is made permanent or would have been made permanent if his temporary service in the higher grade was found to have been satisfactory.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1554, and amended Pub. L. 91-402, § 1(11), Sept. 18, 1970, 84 Stat. 841.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
790(a).....	50:1394(a).	Sept. 3, 1954, ch. 1257,
790(b).....	50:1394(b).	§ 614, 68 Stat. 1187.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-402 deleted "or her" and "in the Regular Coast Guard" preceding and following "running mate", where first appearing, "Regular" preceding "running mate" in two subsequent instances, and "in the Regular service" following "running mate", where last appearing, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 791. Promotion of officers on active duty

(a) While serving on active duty other than active duty for training, or other than for duty on a board, a Reserve officer shall not be eligible for consideration for promotion or for promotion under the provisions of this subchapter. Such an officer shall be considered for promotion and promoted pursuant to appropriate provisions contained elsewhere in this title. If so promoted, such an officer shall be considered as having been promoted under this subchapter and shall be considered as an extra number in the grade to which promoted for the purpose of grade distribution prescribed in this subchapter and shall not be counted in such distribution until he is released from active duty.

(b) Notwithstanding provisions of subsection (a) of this section a Reserve officer who, at the time he reports for active duty has been recommended for promotion to the next higher grade under the provisions of this subchapter, shall be promoted to such grade subject to the same conditions as though selected under provisions of law applicable to a Reserve officer serving on active duty.

(c) A Reserve officer who, at the time he is released from active duty, has been recommended for promotion to the next higher grade under provisions of law applicable to a Reserve officer serving on active duty, shall be promoted to such grade subject to the same conditions as though selected under provisions of this subchapter.

(d) A failure of selection for promotion to the next higher grade shall be counted for all purposes regardless of whether it occurred under the provisions of this subchapter or under other provisions of law.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1554, and amended Pub. L. 88-130, § 1(13), Sept. 24, 1963, 77 Stat. 190; Pub. L. 91-402, § 1(12), Sept. 18, 1970, 84 Stat. 842.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
791.....	50:1395.	Sept. 3, 1954, ch. 1257, § 615, 68 Stat. 1188.

The word "subchapter" is substituted for the word "chapter".

AMENDMENTS

1970—Subsecs. (a) to (d). Pub. L. 91-402 substituted subsecs. (a) to (d) for prior par., which provided for promotion of Reserve officers while serving on extended active duty in same manner as officers of Regular Coast Guard, treated officers so promoted by reason of being on active duty as extra members in higher grade of reserve, provided for resumption of permanent rank and status in Reserve, when released from such active duty, unless permanently promoted while on extended active duty, provided for consideration of such officers by promotion boards for officers of Reserve if they met requirements of this subchapter and regulations of the Secretary, and provided for promotion of such officers in normal manner for Reserve officers if qualified under this subchapter.

1963—Pub. L. 88-130 eliminated "for temporary service" following "Reserve may be promoted".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 792. Appointment of former Navy and Coast Guard officers

Former officers of the Navy or Coast Guard who are appointed in the Reserve in the same grades or ranks held in the Regular Navy or Coast Guard as a result of application therefor, made within one year from date of resignation from the Navy or Coast Guard, shall be given the same date of rank as that held by them in the Navy or Coast Guard.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1554.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
792.....	50:1396.	Sept. 3, 1954, ch. 1257, § 616, 68 Stat. 1188.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 793. Grades upon relief of retired officers

(a) Reserve officers of the Retired Reserve or officers on a Reserve retired list, when recalled to active duty, shall be recalled in the grades authorized or which may hereafter be authorized for the recall of Regular retired officers.

(b) Notwithstanding any other provisions of this subchapter, any officer recalled to active duty pursuant to subsection (a) of this section and who is advanced to a higher grade under a temporary appointment shall, upon relief from active duty, if his performance of duty under such temporary appointment was satisfactory, be advanced on the retired list to the highest grade held while on active duty.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1554.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
793(a).....	50:1397(a).	Sept. 3, 1954, ch. 1257, § 617, 68 Stat. 1188.
793(b).....	50:1397(b).	

In subsection (b), the word "subchapter" is substituted for the word "chapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 770, 795 of this title.

§ 794. Regulations

The Secretary may prescribe such regulations, not inconsistent with this subchapter, as he may deem necessary and appropriate in the premises.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1554.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
794.....	50:1398.	Sept. 3, 1954, ch. 1257, § 618, 68 Stat. 1188.

The word "subchapter" is substituted for the word "chapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 795. Effect of this subchapter on retirements and retired pay

Except as provided in subsection 793(b), nothing in this subchapter authorizes the retirement of Reserve officers or the payment of retired, retirement, or severance pay to such officers, or to affect in any manner provisions of law relating to the retirement of, or the granting of retired or retirement pay or other benefits to, Reserve officers.

(Added Pub. L. 85-861, § 5(2), Sept. 2, 1958, 72 Stat. 1555.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
795.....	50:1182(a).	Sept. 3, 1954, ch. 1257, § 703(a), 68 Stat. 1189.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

§ 796. Failure of selection for promotion

(a) A Reserve officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

(b) An officer shall not be considered to have failed of selection if he was not considered by a selection board because of administrative error. If he is selected by the next succeeding selection board after the error is discovered and is promoted, he shall be given the date of rank and precedence that he would have held if he had been recommended for promotion by the selection board which would have considered him but for the error.

(Added Pub. L. 91-402, § 1(13), Sept. 18, 1970, 84 Stat. 842, and amended Pub. L. 93-174, § 2(8), Dec. 5, 1973, 87 Stat. 692.)

AMENDMENTS

1973—Subsec. (c). Pub. L. 93-174 struck out subsec. (c) which provided that officers of the Women's Reserve in the grades of lieutenant and lieutenant (junior grade) who were junior to the last officer selected by a board pursuant to section 780(i) of this title shall not be considered to have failed of selection and that the names of such officers shall be submitted to the next ensuing selection board.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to section 770 of this title.

§ 797. Promotion; accepted; oath of office

(a) An officer who has been appointed under the provisions of this subchapter is considered to have accepted such appointment unless delivery of the appointment cannot be effected.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5, United States Code, is not required to take a new oath upon his appointment in a higher grade.

(Added Pub. L. 91-402, § 1(13), Sept. 18, 1970, 84 Stat. 842.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to section 770 of this title.

§ 798. Rear admiral; maximum service in grade

A Reserve rear admiral, unless retained in or removed from an active status under other provisions of law, shall be removed from an active status on the date he completes five years of service in the permanent grade of rear admiral.

(Added Pub. L. 91-402, § 1(13), Sept. 18, 1970, 84 Stat. 843.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 770 of this title.

CHAPTER 23—COAST GUARD AUXILIARY

Sec.
821. Administration.
822. Purpose.
823. Eligibility, enrollments.
824. Disenrollment.
825. Membership in other organizations.
826. Use of member's facilities.
827. Vessel deemed public vessel.
828. Aircraft deemed public aircraft.
829. Radio station deemed government station.
830. Availability of appropriations.
831. Assignment and performance of duties.
832. Injury or death in line of duty.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 46 section 1481.

§ 821. Administration

The Coast Guard Auxiliary established on February 19, 1941, is a nonmilitary organization administered by the Commandant under the direction of the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 260, 263 (Feb. 19, 1941, ch. 8, title I, §§ 1, 4, 55 Stat. 9, 10).

This section continues the Auxiliary, redefining it as a nonmilitary organization, and providing for its administration. 81st Congress, House Report No. 557.

CROSS REFERENCES

Commandant—
Delegation of powers by Secretary, see section 631 of this title.
Powers in general, see section 93 of this title.
Secretary—
Powers in general, see section 92 of this title.
Supervision of commandant's execution of powers and functions, see section 632 of this title.

§ 822. Purpose

The purpose of the Auxiliary is to assist the Coast Guard:

(a) to promote safety and to effect rescues on and over the high seas and on navigable waters;

(b) to promote efficiency in the operation of motorboats and yachts;

(c) to foster a wider knowledge of, and better compliance with, the laws, rules, and regulations governing the operation of motorboats and yachts; and

(d) to facilitate other operations of the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 261 (Feb. 19, 1941, ch. 8, title I, § 2, 55 Stat. 9; Sept. 30, 1944, ch. 453, § 1, 58 Stat. 759).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 823. Eligibility, enrollments

The Auxiliary shall be composed of citizens of the United States and its territories and possessions, who are owners, sole or part, of motorboats, yachts, aircraft, or radio stations or who by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 262, 351 (Feb. 19, 1941, ch. 8, title I, § 3, title III, § 301, 55 Stat. 9, 13; Oct. 26, 1942, ch. 628, 56 Stat. 990; Sept. 30, 1944, ch. 453, § 2, 58 Stat. 760).

All reference to the Philippine Islands is eliminated.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 824. Disenrollment

Members of the Auxiliary may be disenrolled pursuant to applicable regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Experience has shown that it is desirable to have a statute definitely providing for separation of Auxiliarists from the organization. 81st Congress, House Report No. 557.

§ 825. Membership in other organizations

Members of the Auxiliary may be appointed or enlisted in the Reserve, pursuant to applicable regulations, and membership in the Auxiliary shall not be a bar to membership in any other naval or military organization.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 264 (Feb. 19, 1941, ch. 8, title I, § 5, 55 Stat. 10).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 826. Use of member's facilities

The Coast Guard may utilize for any purpose incident to carrying out its functions and duties as authorized by the Secretary any motorboat, yacht, aircraft, or radio station placed at its disposition for any of such purposes by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Aug. 3, 1950, ch. 536, § 35, 64 Stat. 408.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., § 265 (Feb. 19, 1941, ch. 8, title I, § 6, 55 Stat. 10; Nov. 23, 1942, ch. 639, § 2(1), 56 Stat. 1021; Sept. 30, 1944, ch. 453, § 3, 58 Stat. 760).

Changes were made in phraseology. 81st Congress, House Report No. 557.

Amendments

1950—Act Aug. 3, 1950, struck out comma following the word "Secretary" and substituted "any" for "and" following the word "Secretary".

§ 827. Vessel deemed public vessel

Any motorboat or yacht, while assigned to authorized Coast Guard duty shall be deemed to be a public vessel of the United States, and within the meaning of section 646 of this title shall be deemed to be a vessel of the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., § 266 (Feb. 19, 1941, ch. 8, title I, § 7, 55 Stat. 10).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 828. Aircraft deemed public aircraft

Any aircraft, while assigned to authorized Coast Guard duty shall be deemed to be a vessel of the Coast Guard within the meaning of section 646 of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 556.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., § 266a (Feb. 19, 1941, ch. 8, title I, § 7A, as added Sept. 30, 1944, ch. 453, § 4, 58 Stat. 760).

The last clause of said section is eliminated because it might be construed to exempt planes of members from being licensed according to law.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 829. Radio station deemed government station

Any radio station, while assigned to authorized Coast Guard duty shall be deemed to be a radio station of the Coast Guard and a "government station" within the meaning of Section 305 of the Communications Act of 1934 (47 U.S.C. 305).[1]

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Oct. 18, 1976, Pub. L. 94-546, § 1(38), 90 Stat. 2522.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., § 266b (Feb. 19, 1941, ch. 8, title I, § 7B, as added Sept. 30, 1944, ch. 453, § 4, 58 Stat. 760).

[1] So in original.

Changes were made in phraseology. 81st Congress, House Report No. 557.

References in Text

Section 305 of the Communications Act of 1934 (47 U.S.C. 305), referred to in text, is classified to section 305 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Amendments

1976—Pub. L. 94-546 substituted "Section 305 of the Communications Act of 1934 (47 U.S.C. 305)" for "chapter 5, of Title 47".

§ 830. Availability of appropriations

Appropriations of the Coast Guard shall be available for the payment of actual necessary traveling expense and subsistence, or commutation of ration allowance in lieu of subsistence, of members of the Auxiliary assigned to authorized specific duties and for actual necessary expenses of operation of any motorboat, yacht, aircraft, or radio station when assigned to Coast Guard duty, but shall not be available for the payment of compensation for personal services, incident to such operation, other than to personnel of the Coast Guard or the Reserve. The term "actual necessary expenses of operation," as used in this section, shall include payment for fuel, oil, power, water, supplies, provisions, replacement or repair of equipment, repair of any damaged motorboat, yacht, aircraft, or radio station and for the constructive or actual loss of any motorboat, yacht, aircraft, or radio station where it is determined, under applicable regulations, that responsibility for the loss or damage necessitating such replacement or repair of equipment, or for the damage or loss, constructive or actual, of such motorboat, yacht, aircraft, or radio station rests with the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 556.)

Historical and Revision Notes

Based on title 14, U.S.C., 1946 ed., § 267 (Feb. 19, 1941, ch. 8, title I, § 8, 55 Stat. 10; June 6, 1942, ch. 385, § 1(1), 56 Stat. 329; Sept. 30, 1944, ch. 449, § 2, 58 Stat. 757; Sept. 30, 1944, ch. 453, § 5, 58 Stat. 760).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 831. Assignment and performance of duties

No member of the Auxiliary, solely by reason of such membership, shall be vested with, or exercise, any right, privilege, power, or duty vested in or imposed upon the personnel of the Coast Guard or the Reserve, except that any such member may, under applicable regulations, be assigned specific duties, which, after appropriate training and examination, he has been found competent to perform, to effectuate the purposes of the Auxiliary. No member of the Auxiliary shall be placed in charge of a motorboat, yacht, aircraft, or radio station assigned to Coast Guard duty unless he has been specifically designated by authority of the Commandant to perform such duty. Members of the Auxiliary, when assigned to specific duties as herein authorized shall, unless otherwise limited by the Commandant, be vested with the same power and authority, in the execution of such duties, as members of the regular Coast Guard assigned to similar duty. When

any member of the Auxiliary is assigned to such duty he may, pursuant to regulations issued by the Secretary, be paid actual necessary traveling expenses, including a per diem allowance in conformity with standardized Government travel regulations in lieu of subsistence, while traveling and while on duty away from his home. No per diem shall be paid for any period during which quarters and subsistence in kind are furnished by the Government, and no per diem shall be paid for any period while such member is performing duty on a vessel.

(Aug. 4, 1949, ch. 393, 63 Stat. 556.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 268 (Feb. 19, 1941, ch. 8, title I, § 9, 55 Stat. 10; July 11, 1941, ch. 290, § 10(1), 55 Stat. 587; Sept. 30, 1944, ch. 453, § 6, 58 Stat. 761).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 832. Injury or death in line of duty

When any member of the Auxiliary is physically injured or dies as a result of physical injury incurred while performing any specific duty to which he has been assigned by competent Coast Guard authority, such member or his beneficiary shall be entitled to the same benefits provided for temporary members of the Reserve who suffer physical injury or death resulting from physical injury incurred incident to service. Members of the Auxiliary who incur physical injury or contract sickness or disease while performing any specific duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded officers and enlisted men of the Coast Guard. The performance of a specific duty as the term is used in this section includes time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary.

(Aug. 4, 1949, ch. 393, 63 Stat. 556; May 14, 1974, Pub. L. 93-283, § 1(15), 88 Stat. 141.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 270 (Feb. 19, 1941, ch. 8, title I, § 11, as added Sept. 30, 1944, ch. 453, § 7, 58 Stat. 761).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1974—Pub. L. 93-283 included time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary as the performance of a specific duty.

CHAPTER 25—GENERAL PROVISIONS FOR COAST GUARD RESERVE AND AUXILIARY

Sec.
891. Flags; pennants; uniforms and insignia.
892. Penalty.
893. Limitation on rights of members of the Auxiliary and temporary members of the Reserve.
894. Availability of facilities and appropriations.

§ 891. Flags; pennants; uniforms and insignia

The Secretary may prescribe one or more suitable distinguishing flags, pennants, or other identifying insignia to be displayed by the motorboats, yachts, aircraft, and radio stations owned by members of the Auxiliary and one or more suitable insignia which may be worn by members of the Reserve or the Auxiliary, and may prescribe one or more suitable uniforms which may be worn by members of the Auxiliary. Such flags, pennants, uniforms, and insignia may be furnished by the Coast Guard at actual cost, and the proceeds received therefor shall be credited to current appropriations from which purchase of these articles is authorized.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 352 (Feb. 19, 1941, ch. 8, title III, § 302, 55 Stat. 13; Sept. 30, 1944, ch. 453, § 9, 58 Stat. 761).

Said section has been divided. The first two sentences are placed in this section. The last sentence is placed in section 892 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

CROSS REFERENCES

Coast Guard ensigns and pennants, see section 638 of this title.

§ 892. Penalty

Whoever, without proper authority, flies from any building, aircraft, motorboat, yacht, or other vessel, any flag or pennant or displays any identifying insignia or wears any uniform or insignia of the Reserve or the Auxiliary shall be fined not more than $500.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 352 (Feb. 19, 1941, ch. 8, title III, § 302, 55 Stat. 13; Sept. 30, 1944, ch. 453, § 9, 58 Stat. 761).

Said section has been divided. The last sentence is placed in this section. The first two sentences are placed in section 891 of this title. 81st Congress, House Report No. 557.

CROSS REFERENCES

Penalty for unauthorized wearing of uniform of armed forces or auxiliary, see section 702 of Title 18, Crimes and Criminal Procedure.

§ 893. Limitation on rights of members of the Auxiliary and temporary members of the Reserve

Members of the Auxiliary and temporary members of the Reserve shall be entitled only to such rights, privileges, and benefits as are specifically set forth for them in this title or as may be specifically provided for them in any other Act of Congress. Any Act of Congress which grants rights, privileges, or benefits generally to military personnel, or among others, to personnel of the Coast Guard and the Coast Guard Reserve, without specifically granting such rights, privileges, or benefits to members of the Auxiliary or temporary members of the Reserve, shall not be deemed applicable to members of the Auxiliary or to temporary members of the Reserve.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 271 (Feb. 19, 1941, ch. 8, title I, § 12, as added Sept. 30, 1944, ch. 453, § 8, 58 Stat. 761).

Temporary members of the Reserve are included within the provisions of this section.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 894. Availability of facilities and appropriations

The services and facilities of and appropriations for the Coast Guard shall be available to effectuate the purposes of the Reserve and the Auxiliary.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 354 (Feb. 19, 1941, ch. 8, title III, § 304, 55 Stat. 14).

Changes were made in phraseology. 81st Congress, House Report No. 557.